



SEATTLE CITY COUNCIL

Public Assets and Homelessness Committee

Agenda

Wednesday, August 3, 2022

2:00 PM

Public Hearing

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

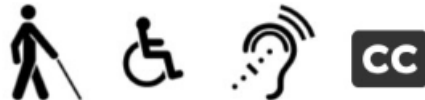
Andrew J. Lewis, Chair
Teresa Mosqueda, Vice-Chair
Lisa Herbold, Member
Debora Juarez, Member
Tammy J. Morales, Member

Chair Info: 206-684-8807; Andrew.Lewis@seattle.gov

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SEATTLE CITY COUNCIL
Public Assets and Homelessness Committee
Agenda
August 3, 2022 - 2:00 PM
Public Hearing

Meeting Location:

Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

Committee Website:

<https://www.seattle.gov/council/committees/public-assets-and-homelessness>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at the meeting at <http://www.seattle.gov/council/committees/public-comment>. Online registration to speak will begin two hours before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak on the Public Comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Submit written comments to Councilmember Lewis at Andrew.Lewis@seattle.gov

Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

D. Items of Business

1. [Res 32062](#) **A RESOLUTION relating to Seattle Parks and Recreation; authorizing the Superintendent of Parks and Recreation to act as the authorized representative/agent on behalf of The City of Seattle and to legally bind The City of Seattle with respect to certain projects for which the City seeks grant-funding assistance managed through the Recreation and Conservation Office.**

Attachments: [Att A - Sample RCO Project Agreement](#)

Supporting

Documents: [Summary and Fiscal Note](#)
[Summary Att A - Project Maps](#)

Briefing, Discussion, and Possible Vote

Presenters: Acting Superintendent Christopher Williams, and Donnie Grabowski, Seattle Parks and Recreation

2. **Seattle Parks Presentation on Off-Leash Areas**

Supporting

Documents: [Presentation](#)

Briefing and Discussion

Presenters: Acting Superintendent Christopher Williams, and Danyal Lotfi, Seattle Parks and Recreation

3. **City Hall Park Land Swap Proposal**

Supporting
Documents:

[Presentation \(7/6/22\)](#)

[Central Staff Memo \(7/6/22\)](#)

Public Hearing

Register online to speak at the Land Use Committee Meeting Public Hearing at <http://www.seattle.gov/council/committees/public-comment>. Online registration to speak at the Public Hearing during the Land Use Committee meeting will begin two hours before the 9:30 a.m. meeting start time, and registration will end at the conclusion of the Public Hearing during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak at the Public Hearing sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Hearing period during the meeting. Speakers must be registered in order to be recognized by the Chair.

If you are unable to attend the remote meeting, please Submit written comments to Councilmember Lewis at Andrew.Lewis@seattle.gov.

E. Adjournment



Legislation Text

File #: Res 32062, **Version:** 1

CITY OF SEATTLE

RESOLUTION _____

A RESOLUTION relating to Seattle Parks and Recreation; authorizing the Superintendent of Parks and Recreation to act as the authorized representative/agent on behalf of The City of Seattle and to legally bind The City of Seattle with respect to certain projects for which the City seeks grant-funding assistance managed through the Recreation and Conservation Office.

WHEREAS, state grant assistance is requested by The City of Seattle to aid in financing the cost of the following projects (“Projects”), to be administered by Seattle Parks and Recreation (SPR): Colman Pool Renovation, Rainier Beach Skate Park, Little Brook Park, Carkeek Park Rail Overpass, and Soundview Playfield Improvements; and

WHEREAS, on August 18, 2017, the Seattle City Council passed Resolution 31763, adopting the 2017 Parks and Open Space Plan; and

WHEREAS, the Projects are included in SPR’s Asset Management Plan, the 2017 Parks and Open Space Plan, 2007 Citywide Skatepark Plan, the 2016-2021 Capital Improvement Program, and/or the Seattle Park District Major Maintenance Plan; and

WHEREAS, state grant assistance is requested by SPR to aid in financing the cost of the Projects referenced above; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR

CONCURRING, THAT:

Section 1. The City of Seattle (for the purposes of this resolution, “we/us/our”) has applied for or intends to apply to the State of Washington for funding assistance managed by the State Recreation and Conservation Office (“Office”) for the “Proposed CIP Projects” in the amount set forth in the “Grant Request”

column below:

Proposed CIP Projects	RCO Program Category	Match	Grant Request
Colman Pool Renovation	WA Wildlife & Recreation (WWRP)	\$3,617,360	\$500,000
	Youth Athletic Facilities (YAF)		\$350,000
Rainier Beach Playfield Skatepark	Land & Water Conservation Fund (LWCF)	\$1,000,000	\$1,000,000
	WA Wildlife & Recreation (WWRP)		\$500,000
Carkeek Park Rail Overpass	WA Wildlife & Recreation (WWRP)	\$1,300,000	\$1,800,000
	Aquatic Lands Enhancement Act (ALEA)		\$500,000
Little Brook Park Improvements	Land & Water Conservation Fund (LWCF)	\$500,000	\$800,000
	WA Wildlife & Recreation (WWRP)		\$500,000
Soundview Playfield Improvements	Land & Water Conservation Fund (LWCF)	\$3,000,000	\$2,000,000
	WA Wildlife & Recreation (WWRP)		\$500,000
	Youth Athletic Facilities (YAF)		\$350,000
Total		\$9,417,360	\$8,800,000

Section 2. The City of Seattle authorizes the following person or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	Moshe Hecht / Sr. Funds and Contracts Coordinator, Seattle Parks and Recreation, Michelle Whitfield / Capital Projects Coordinator, Seattle Parks and Recreation
Project contact (day-to-day administering of the grant and communicating with the RCO)	Moshe Hecht / Sr. Funds and Contracts Coordinator, Seattle Parks and Recreation
RCO Grant Agreement (Agreement)	Christopher Williams / Acting Superintendent, Seattle Parks and Recreation

Agreement amendments	Christopher Williams / Acting Superintendent, Seattle Parks and Recreation. Alternate Signers include the Deputy Superintendent, Finance Director, and Policy Director of Seattle Parks and Recreation.
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typically recorded on the property with the county.	Christopher Williams / Acting Superintendent, Seattle Parks and Recreation. Alternate Signers include the Deputy Superintendent, Finance Director, and Policy Director of Seattle Parks and Recreation.

The above persons are considered “authorized representative(s)/agent(s)” for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

Section 3. The City of Seattle has reviewed the Sample Project Agreement, which is attached to this resolution as Attachment A. The City of Seattle understands and acknowledges that, if offered a project agreement to sign in the future, it will contain an indemnification and legal venue stipulation (applicable to any sponsor) and a waiver of sovereign immunity (applicable to Tribes) and other terms and conditions substantially in the form contained in the Sample Project Agreement, and that such terms and conditions of any signed project agreement shall be legally binding, to the extent allowed by law, on The City of Seattle if the Superintendent or the authorized representative/agent enters into a project agreement on our behalf. The City of Seattle’s obligations under any indemnity provision authorized by this resolution are subject to any limitations imposed by state law. Appropriated funds that are subject to this indemnity obligation include, but are not limited to, funds in the Licensee’s self-insurance program and in the judgment claims subfund (00126) established by Ordinance 124088, and future moneys appropriated for the same purposes. The City of Seattle understands that the Office reserves the right to revise the project agreement prior to execution and shall communicate any such revisions with the above-authorized representative/agent before execution.

Section 4. The City of Seattle acknowledges and warrants that the Superintendent will have full legal

authority to enter on its behalf into a project agreement(s) that includes indemnification, waiver of sovereign immunity (as may apply to Tribes), and stipulated legal venue for lawsuits and other terms substantially in the form contained in the Sample Project Agreement to the maximum extent allowed by law or as may be revised prior to execution.

Section 5. Grant assistance is contingent on a signed project agreement. Entering into any project agreement with the Office is purely voluntary on the part of The City of Seattle.

Section 6. The City of Seattle understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the project agreement, the characteristics of the project, and the characteristics of The City of Seattle.

Section 7. The City of Seattle further understands that prior to executing the project agreement(s), the Office may make revisions to its Sample Project Agreement and that such revisions could include the indemnification, the waiver of sovereign immunity, and the legal venue stipulation. The City of Seattle accepts the legal obligation that prior to execution of the project agreement(s), the Superintendent shall inform City Council of any revisions to the project agreement from that of the Sample Project Agreement and obtain required authority to enter the agreement on behalf of The City of Seattle. The City of Seattle also acknowledges and accepts that the Superintendent will not execute the project agreement(s) without required authorizing legislation and that after execution of any such revisions, all terms and conditions of the executed project agreement (including but not limited to the indemnification, the waiver of sovereign immunity, and the legal venue stipulation) may be deemed to be executed with the authorization of The City of Seattle and apply to the maximum extent allowed by law.

Section 8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

Section 9. [Reserved from State template due to City legislative requirements.]

Section 10. If match is required for the grant, we understand The City of Seattle must certify the

availability of match at least one month before funding approval. In addition, The City of Seattle understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.

Section 11. The City of Seattle acknowledges that if it receives grant funds managed by the Office, the Office will pay us on a reimbursement basis. We understand “reimbursement basis” means that we will only request payment from the Office after we incur grant-eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until the Project is complete.

Section 12. The City of Seattle acknowledges that any property owned by The City of Seattle that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or by the Office in writing and pursuant to the project agreement or an amendment thereto. Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for pursuant to the project agreement or an amendment thereto.

Section 13. The City of Seattle passes this resolution with the understanding that it shall be deemed to be part of the formal grant application to the Office.

Section 14. By adopting this resolution, The City of Seattle warrants and certifies that it has full legal authority to commit The City of Seattle to the warranties, certifications, promises, and obligations set forth in this resolution.

Adopted by the City Council the _____ day of _____, 2022, and signed by me in open session in authentication of its adoption this _____ day of _____, 2022.

President _____ of the City Council

The Mayor concurred the _____ day of _____, 2022.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2022.

Elizabeth M. Adkisson, Interim City Clerk

(Seal)

Attachments:
Attachment A - Sample RCO Project Agreement

Project Number:
USFS Number:



Project Sponsor:

Project Number:

Project Title:

Approval Date:

A. PARTIES OF THE AGREEMENT

B. PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO) to the Sponsor for the project named above per the director's authority granted in RCW 79A.25.020.

C. DESCRIPTION OF PROJECT

D. PERIOD OF PERFORMANCE

The period of performance begins on (project start date) and ends on (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement or specifically provided for by policies published in RCO manuals as of the effective date of this agreement.

The Sponsor must request extensions of the period of performance at least 60 days before the project end date.

The Sponsor has obligations beyond this period of performance as described in Section F: Long-Term Obligations.

E. STANDARD TERMS AND CONDITIONS INCORPORATED

The Standard Terms and Conditions of the Project Agreement are hereby incorporated by reference as part of this Agreement.

F. LONG-TERM OBLIGATIONS

G. PROJECT FUNDING

The total grant award provided by the funding board for this project shall not exceed \$. The funding board shall not pay any amount beyond that approved for grant funding of the project and within the funding board's percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

<u>Percentage</u>	<u>Dollar Amount</u>	<u>Source of Funding</u>
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Project Sponsor

Total Project Cost

H. FEDERAL FUND INFORMATION

I. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless those terms are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

Project Number:
USFS Number:

J. AMENDMENTS TO AGREEMENT

Except as provided herein, no amendment (including without limitation, deletions) of any of the terms or conditions of this Agreement will be effective unless provided in writing signed by all parties. Extensions of the period of performance and minor scope adjustments consented to in writing (including email) by the Sponsor need only be signed by RCO's director or designee, unless otherwise provided for in another agreement a Sponsor has with the RCO. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so, and such signature shall be binding on the Sponsor if the representative/agent signing has been authorized to do so by Applicant Resolution/Authorization provided to the RCO and such Applicant Resolution/Authorization has not been withdrawn by the governing body in a subsequent resolution.

Any amendment to this Agreement, unless otherwise expressly stated, shall be deemed to include all current federal, state, and local government laws and rules, and funding board policies applicable and active and published in RCO manuals or on the RCO Website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

K. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND RCFB-SRFB POLICIES

This agreement is governed by, and the Sponsor shall comply with, all applicable state and federal laws and regulations, including any applicable policies published in RCO manuals or on the RCO Website as exist on the effective date of this Agreement and any amendments to this Agreement. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

L. SPECIAL CONDITIONS

M. AGREEMENT CONTACTS

The parties will provide all written communications and notices under this Agreement to the mail address or the email address listed below if not both:

Project Contact

Name:

Title:

Address:

Email:

Natural Resources Building

PO Box 40917

Olympia, Washington 98504-0917

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

N. ENTIRE AGREEMENT

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

O. EFFECTIVE DATE

This Agreement, for project , shall be subject to the written approval of the RCO's authorized representative and shall not be effective and binding until the date signed by both the Sponsor and the RCO, whichever is later (effective date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in Section D: PERIOD OF PERFORMANCE are allowed only when this Agreement is fully executed and an original is received by RCO.

Project Number:
USFS Number:

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE PROJECT AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

By: _____

Date: _____

Name: (printed) _____

Title: _____

By: _____

Date: _____

Pre-approved as to form:

By: _____

Date: _____

Assistant Attorney General

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Project Number:

USFS Number:



Standard Terms and Conditions of the Project Agreement

Project Sponsor:

Project Number:

Project Title:

Approval Date:

SECTION 1. CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

acquisition project – A project that purchases or receives a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

Agreement or project agreement – The document entitled “Funding Board Project Agreement” accepted by all parties to the present transaction, including without limitation these Standard Terms and Conditions of the Project Agreement, all attachments, addendums, and amendments, and any intergovernmental agreements or other documents that are incorporated into the Funding Board Project Agreement subject to any limitations on their effect.

applicant – Any party that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the funding board.

application – The documents and other materials that an applicant submits to the RCO to support the applicant’s request for grant funds; this includes materials required for the “Application” in the RCO’s automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

Authorized Representative/Agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

Boating Infrastructure Grant (BIG) – A program administered through the United States Fish and Wildlife Service.

C.F.R. – Code of Federal Regulations

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

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conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

development project – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources.

director – The chief executive officer of the Recreation and Conservation Office or that person's designee.

education project – A project that provides information, education, and outreach programs for the benefit of outdoor recreationists.

education and enforcement project – A project that provides information, education, and outreach programs; encourages responsible recreational behavior, and may provide law enforcement for the benefit of outdoor recreationists.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

enhancement project – 1) A project that brings a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site, or 2) a project that (i) supports hatchery reform to improve hatchery effectiveness to minimize impacts to wild fish populations, (ii) ensures compatibility between hatchery production and salmon recovery programs, or (iii) supports sustainable fisheries (WAC 420.04.010).

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board – The board that authorized the funds in this Agreement, either the Recreation and Conservation Funding Board (RCFB) created under RCW 79A.25.110, or the Salmon Recovery Funding Board (SRFB) created under RCW 77.85.110.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

long-term compliance period – The period of time after the project end date or end of the period of performance (depending on the project types and grant program). During this period, the Sponsor has continuing obligations under the Agreement. This period may have a nonspecific end date (in perpetuity) or an expressly specified number of years.

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and applicable regulations and policies.

landowner agreement – An agreement that is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor.

Project Number:

USFS Number:

maintenance – A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreation or salmon recovery.

maintenance and operation – A project that maintains and operates existing areas and facilities through repairs, upkeep, and routine services for the benefit of outdoor recreationists.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

monitoring project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

monitoring and research project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

Office – Means the Recreation and Conservation Office or RCO.

notice of grant – As required by RCO or another authority, a document that has been legally recorded in the county or counties where the project property is located that describes the grant funded project located on the property, the funding sources, and agencies responsible for awarding the grant.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

planning (RCFB projects only) – A project that results in one or more of the following: a study, a plan, construction plans and specifications, and permits to increase the availability of outdoor recreational resources.

planning (SRFB projects only) – A project that results in a study, assessment, project design, or inventory.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. This administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – An undertaking that is, or may be, funded in whole or in part with funds administered by RCO on behalf of the funding board.

project area, RCFB – A geographic area that delineates a grant assisted site which is subject to project agreement requirements (WAC 286.04.010).

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project area, SRFB – The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project (WAC 420.04.010).

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (2 C.F.R. § 200.83 (2013)).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

research project – Means a project that studies salmon and the effectiveness of recovery restoration efforts on the population or habitat condition.

RCO – Recreation and Conservation Office – The state office that provides administrative support to the Recreation and Conservation Funding Board and Salmon Recovery Funding Board. RCO includes the director and staff, created by RCW 79A.25.110 and 79A.25.150 and charged with administering this Agreement by RCW 77.85.110 and 79A.25.240.

reimbursement – RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

restoration project – A project that brings a site back to its historic function as part of a natural ecosystem or improving the ecological functionality of a site.

restoration and enhancement project – A project that brings a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site or a larger ecosystem which improvement may include benefiting fish stocks.

RCFB – Recreation and Conservation Funding Board

RCW – Revised Code of Washington

Recreational Trails Program (RTP) – A Federal Highways Administration grant program.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB – Salmon Recovery Funding Board

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subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in Section G: Project Funding.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

useful service life – Period during which an asset or property is expected to be useable for the purpose it was acquired, developed, renovated, and/or restored per this Agreement.

WAC – Washington Administrative Code.

SECTION 2. PERFORMANCE BY THE SPONSOR

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the funding board. All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

SECTION 3. ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written consent of the RCO.

SECTION 4. RESPONSIBILITY FOR PROJECT

While the funding board undertakes to assist the Sponsor with the project by providing a grant pursuant to this Agreement, the project itself remains the sole responsibility of the Sponsor. The funding board undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project is Sponsored by more than one entity, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO has no responsibility for reviewing, approving, overseeing or supervising design or construction of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO will act only to confirm at a general, lay, and nontechnical level, solely for the purpose of compliance and payment and not for safety or suitability, that the project has apparently been completed as per the Agreement.

SECTION 5. INDEMNIFICATION

The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor is legally liable, and (b) the State its employees and agents for whom it is vicariously liable, the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or the negligence of the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

This provision shall be included in any agreement between Sponsor and any contractors, subcontractor and vendor, of any tier.

The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51.

The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

SECTION 6. INDEPENDENT CAPACITY OF THE SPONSOR

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the funding board or RCO. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of RCO, a funding board or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06 or Section 30B.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

SECTION 7. CONFLICT OF INTEREST

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

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

SECTION 8. COMPLIANCE WITH APPLICABLE LAW

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:

- A. Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Act. In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the funding board. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law.
- B. Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
- C. Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.040. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
 - 1. Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130).** If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.

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- D. Archaeological and Cultural Resources.** RCO facilitates the review of applicable projects for potential impacts to archaeological sites and state cultural resources. The Sponsor must assist RCO in compliance with Governor's Executive Order 05-05 or the National Historic Preservation Act before and after initiating ground-disturbing activity or construction, repair, installation, rehabilitation, renovation, or maintenance work on lands, natural resources, or structures. The funding board requires documented compliance with Executive Order 05-05 or Section 106 of the National Historic Preservation Act, whichever is applicable to the project. If a federal agency declines to consult, the Sponsor shall comply with the requirements of Executive Order 05-05. In the event that archaeological or historic materials are discovered during project activities, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the following: concerned Tribes' cultural staff and cultural committees, RCO, and the State Department of Archaeology and Historic Preservation. If human remains are discovered during project activity, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification provided to the concerned Tribe's cultural staff and cultural committee, RCO, State Department of Archaeology, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.
- E. Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.

No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

- F. Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

SECTION 9. RECORDS

- A. Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- B. Maintenance.** The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of six years from the date RCO deems the project complete, as defined in Section 11: PROJECT REIMBURSEMENTS. 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.

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- C. Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- D. Public Records.** Sponsor acknowledges that the funding board is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04. Additionally, in compliance with RCW 77.85.130(8), Sponsor agrees to disclose any information in regards to expenditure of any funding received from the SRFB. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

SECTION 10. PROJECT FUNDING

- A. Authority.** This Agreement is funded through a grant award from the recreation and conservation funding board per WAC 286 and/or the salmon recovery funding board per WAC 420. The director of RCO enters into this Agreement per delegated authority in RCW 79A.25.020 and 77.85.120.
- B. Additional Amounts.** The funding board shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the funding board or director and incorporated by written amendment into this Agreement.
- C. Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by funding board policy, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- D. Requirements for Federal Subawards.** Pre-Agreement costs before the federal award date in Section H: FEDERAL FUND INFORMATION are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).
- E. After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the funding board may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

SECTION 11. PROJECT REIMBURSEMENTS

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- A. Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in Section G: PROJECT FUNDING. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- B. Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recently published/adopted RCO policies and procedures regarding reimbursement requirements.
- C. Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- D. Retainage Held Until Project Complete.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the project has been completed. A project is considered "complete" when:
1. All approved or required activities outlined in the Agreement are done;
 2. On-site signs are in place (if applicable);
 3. A final project report is submitted to and accepted by RCO;
 4. Any other required documents and media are complete and submitted to RCO;
 5. A final reimbursement request is submitted to RCO;
 6. The completed project has been accepted by RCO;
 7. Final amendments have been processed;
 8. Fiscal transactions are complete, and
 9. RCO has accepted a final boundary map, if requested by RCO, for which the Agreement terms will apply in the future.
 10. Notice of Grant (if applicable) filed with the county lands records office and a stamped copy received by RCO
- E. Requirements for Federal Subawards: Match.** The Sponsor's matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, can be accepted as part of the Sponsor's matching share when such contributions meet all of the following criteria:
1. Are verifiable from the non-Federal entity's (Sponsor's) records;
 2. Are not included as contributions for any other Federal award;
 3. Are necessary and reasonable for accomplishment of project or program objectives;

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4. Are allowable under 2 C.F.R. Part 200, Subpart E—Cost Principles (2013);
5. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
6. Are provided for in the approved budget when required by the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION of this Agreement; and
7. Conform to other provisions of 2 C.F.R. Part 200, Subpart D—Post Federal Award Requirements (2013), as applicable.

F. Requirements for Federal Subawards: Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (Sponsor) must:

1. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the Sponsor.
2. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
3. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (Sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.
4. Account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property (2013).

SECTION 12. ADVANCE PAYMENTS

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements. See WAC 420-12.

SECTION 13. RECOVERY OF PAYMENTS

- A. Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. Overpayment Payments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.

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- C. Requirements for Federal Subawards.** RCO, acting as a pass-through entity, may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).

SECTION 14. COVENANT AGAINST CONTINGENT FEES

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

SECTION 15. INCOME (AND FEES) AND USE OF INCOME

RCFB Projects. See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

A. Income.

- 1. Farm and Forest Account (Farmland and Forestland Preservation Grants).** Excepted from this section is income generated and fees paid on/for properties which received funds from the Farm and Forest Account (RCW 79A.15.130).
- 2. Firearms and Archery Range Recreation Projects.** Excepted from this section are safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (RCW 79A.25.210).
- 3. Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any policies adopted by the RCFB or SRFB.

- B. Use of Income.** Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) during or after the reimbursement period cited in the Agreement, must be set to offset:

1. The Sponsor's matching resources;
2. The project's total cost;
3. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the funding board grant;
4. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
5. Capital expenses for similar acquisition and/or development and renovation; and/or
6. Other purposes explicitly approved by RCO

- C. Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored with funding board grants if the fees are consistent with the:

1. Grant program laws, rules, policies, and funding board policies;

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2. Value of any service(s) furnished;
3. Value of any opportunities furnished; and
4. Prevailing range of public fees in the state for the activity involved.

D. Requirements for Federal Subawards. Sponsors must also comply with 2 C.F.R. § 200.307 Program income (2013).

SECTION 16. PROCUREMENT REQUIREMENTS

A. Procurement Requirements. If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists the Sponsor must follow these minimum procedures:

1. Publish a notice to the public requesting bids/proposals for the project;
2. Specify in the notice the date for submittal of bids/proposals;
3. Specify in the notice the general procedure and criteria for selection; and
4. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
5. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

B. Requirements for Federal Subawards.

1. For all Federal subawards except RTP projects, non-Federal entities (Sponsors) must follow 2 C.F.R §§ 200.318 General procurement standards through 200.326 Contract Provisions (2013).
2. For RTP subawards, Sponsors follow such policies and procedures allowed by the State when procuring property and services under a Federal award (2 C.F.R § 1201.317 (2013)). State procurement policies are in subsection A of this section.

SECTION 17. TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in published funding board policies, or approved by RCO in writing.

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- A. Discontinued Use.** Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- B. Loss or Damage.** The Sponsor shall be responsible for any loss or damage to equipment.
- C. Requirements for Federal Subawards.** Except in the RTP, procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award or match for the award, until disposition takes place will, at a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)):
1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the Federal Award Identification Number), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
 2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
 3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
 4. Adequate maintenance procedures must be developed to keep the property in good condition.
 5. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- D. Requirements for RTP Subawards.**
1. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.
 2. Sponsor may be required to pay prevailing wage rates as required by the Davis Bacon Act as amended.

SECTION 18. RIGHT OF INSPECTION

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement.

If a landowner agreement or other form of control and tenure as described in Section 23.C: Control and Tenure has been executed, it will further stipulate and define the funding board and RCO's right to inspect and access lands acquired or developed with funding board assistance.

SECTION 19. STEWARDSHIP AND MONITORING

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Sponsor agrees to perform monitoring and stewardship functions as stated in funding board policy, this Agreement, or as otherwise directed by RCO consistent with existing policies. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the funding board.

SECTION 20. PREFERENCES FOR RESIDENTS

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

SECTION 21. ACKNOWLEDGMENT AND SIGNS

A. Publications. The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.

B. Signs.

1. During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless exempted in funding board policy or waived by the director; and
2. During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.

C. Ceremonies. The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies.

D. Federally Funded Projects. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:

1. The fund source;
2. The percentage of the total costs of the project that is financed with federal money;
3. The dollar amount of federal funds for the project; and
4. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

SECTION 22. PROVISIONS FOR BOATING PROJECT GRANTS

If requested by RCO, or required per state or federal law or rule with respect to any project or project element that supports recreational boating, Sponsor shall manage the project or project element per federal rules to include 2 C.F.R. Part 200, and place a United States Coast Guard (or other federal agency) logo and funding program information at the project site.

SECTION 23. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is for construction of land or facilities in a development, maintenance, renovation or restoration project:

- A. Operations and Maintenance.** Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted by the board and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration (WAC 286.13.130). It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
- B. Document Review and Approval.** Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
1. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the funding board or RCO must receive prior written approval of the board or RCO.
- C. Control and Tenure.** The Sponsor must provide documentation that shows appropriate tenure (such as landowner agreement, long-term lease, easement, or fee simple ownership) for the land proposed for construction. The documentation must meet current RCO requirements identified in the appropriate grant program policy manual as of the effective date of this Agreement and determines the long-term compliance period unless otherwise approved by the board.
- D. Nondiscrimination.** Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this project:
- "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."
- E. Use of Best Management Practices.** Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include "Integrated Streambank Protection Guidelines", 2002; "Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery", 2009; "Protecting Nearshore Habitat and Functions in Puget Sound", 2010; "Stream Habitat Restoration Guidelines", 2012; "Water Crossing Design Guidelines", 2013; and "Marine Shoreline Design Guidelines", 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in "Reducing Accidental Introductions of Invasive Species" which is available on the WISC Web site.

SECTION 24. PROVISIONS APPLYING TO ACQUISITION PROJECTS

Project Number:

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The following provisions shall be in force only if the project described in this Agreement is an acquisition project (including projects with any acquisition component):

- A. Evidence of Land Value.** Before disbursement of funds by RCO as provided under this Agreement, the Sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to funding board policy.
- B. Evidence of Title.** The Sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
- C. Legal Description of Real Property Rights Acquired.** The legal description of the real property rights purchased with funding assistance provided through this Agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be delivered to RCO before final payment.
- D. Conveyance of Rights to the State of Washington.** When real property rights (both fee simple and lesser interests) are acquired, the Sponsor agrees to execute an appropriate document conveying certain rights and responsibilities to RCO, on behalf of the State of Washington. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the funding board project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
 - 1. Deed of Right.** The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. See WAC 286 or 420. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the Sponsor has acquired a perpetual easement for public purposes.
 - 2. Assignment of Rights.** The Assignment of Rights document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - 3. Easements and Leases.** The Sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
- E. Real Property Acquisition and Relocation Assistance.**
 - 1. Federal Acquisition Policies.** When federal funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended, and applicable regulations and procedures of the federal agency implementing that Act.

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2. **State Acquisition Policies.** When state funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.
 3. **Housing and Relocation.** In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the Sponsor agrees to provide any housing and relocation assistance required.
- F. Buildings and Structures.** In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with Section 8.D Archeological and Cultural Resources.
- G. Hazardous Substances.**
1. **Certification.** The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(13), and certify:
 - a. No hazardous substances were found on the site, or
 - b. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 2. **Responsibility.** Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 3. **Hold Harmless.** The Sponsor will defend, protect and hold harmless the State and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.
- H. Requirements for Federal Subawards.** The non-federal entity (Sponsor) must submit reports at least annually on the status of real property in which the federal government retains an interest, unless the federal interest in the real property extends 15 years or longer. In those instances where the federal interest attached is for a period of 15 years or more, the federal awarding agency or the pass-through entity (RCO), at its option, may require the Sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a federal awarding agency or RCO may require annual reporting for the first three years of a federal award and thereafter require reporting every five years) (2 C.F.R § 200.329 (2013)).

SECTION 25. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS

- A. Long-Term Obligations of RCFB Projects.** Sponsor shall comply with WAC 286-13-160, 170, and 180.
- B. Long-Term Obligations of SRFB Projects.** Sponsor shall comply with WAC 420.

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- C. Perpetuity.** For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by policy, program rules, or this Agreement, or approved in writing by RCO or the funding board, RCO requires that the project area continue to function as intended after the period of performance in perpetuity.
- D. Conversion.** The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. Also see WAC Title 286 or 420 and applicable policies. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policy or unless a transfer or change in use is approved by the funding board through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon this Agreement, applicable law and RCFB/SRFB policies.

For acquisition projects that are expressly term limited in the Agreement, such as one involving a lease or a term-limited restoration, renovation or development project or easement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided in this Agreement, by funding board policy, other RCO approved written documents, or required by applicable state or federal law.

When a conversion has been determined to have occurred, the Sponsor is required to remedy the conversion per established funding board policies, and the board or RCO may pursue such remedies as are allowed by law and board policies, and/or this Agreement.

SECTION 26. CONSTRUCTION, OPERATION, USE AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force only if the project described in this Agreement is an acquisition, development, maintenance, renovation, or restoration project:

- A. Property and facility operation and maintenance.** Sponsor must ensure that properties or facilities assisted with funding board funds, including undeveloped sites, are built, operated, used, and maintained:
1. According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 2. In a reasonably safe condition for the project's intended use;
 3. Throughout its estimated useful service life so as to prevent undue deterioration;
 4. In compliance with all federal and state nondiscrimination laws, regulations and policies.
- B. Open to the public.** Unless otherwise specifically provided for in the Agreement of funding board policies, and in compliance with applicable statutes, rules, and funding board policies, facilities must be open and accessible to the general public, and must:

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1. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
2. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
3. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals, by a decision of the board, or by RCO in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

SECTION 27. RECORDED NOTICE OF GRANT

At the request of RCO, Sponsor shall record a notice of grant on the property and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to ensure that the present and future use of the facility is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

SECTION 28. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS

A corporate Sponsor, including any nonprofit Sponsor, shall:

- A. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the Sponsor's obligation to the project as identified in the Agreement.
- B. Notify RCO before corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities, and transfer all property and assets to the successor. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the Sponsor's obligation to the qualified successor if requirements are met.
- C. Maintain sites or facilities open to the public and may not limit access to members.

SECTION 29. PROVISIONS FOR FEDERAL SUBAWARDS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded with a federal subaward as identified in Section H: FEDERAL FUND Information:

- A. **Sub-Recipient** (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.
- B. **Binding Official.** Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

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C. Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.

- 1. Federally Assisted Construction Contract.** The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- 2. Construction Work.** The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

D. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).

In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in Section H: Federal Fund Information.

The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: Federal Fund Information.

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- E. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- F. Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of "funding agreement" under 37 C.F.R § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- G. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: Federal Fund Information and the Regional Office of the Environmental Protection Agency (EPA).
- H. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

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- I. **Procurement of Recovered Materials.** A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- J. **Required Insurance.** The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).
- K. **Debarment and Suspension (Executive Orders 12549 and 12689).** The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- L. **Conflict of Interest.** Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

SECTION 30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS

- A. **Use of Sport Fish Restoration Logo.** Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from; any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

SECTION 31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded from the Firearms and Archery Range Recreation Account.

- A. **Liability Insurance.** The Sponsor of a firearms or archery range recreation project shall procure an endorsement, or other addition, to liability insurance it carries, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of people who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- B. **Insurance Endorsement.** The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.

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- C. Length of Insurance.** The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the project as identified in this Agreement in Section F. LONG-TERM OBLIGATIONS.
- D. Notice of Cancellation.** The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to RCO not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- E. Government Agencies.** The requirement of Subsection A through D above shall not apply if the Sponsor is a federal, state, or municipal government which has established a program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy as a part of its application to the funding board.
- F. Sole Duty of the Sponsor.** By this requirement, the funding board and RCO does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer while present at, or in the vicinity of, the facility to which this grant relates. Any such person, or any other person making claims based on such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

SECTION 32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS ONLY

If the project has been approved by the National Park Service, US Department of the Interior, for funding assistance from the federal Land and Water Conservation Fund (LWCF), the "Project Agreement General Provisions" of the LWCF are made part of this Agreement and incorporated herein. The Sponsor shall abide by these LWCF General Provisions, in addition to this Agreement, as they now exist or are hereafter amended. Further, the Sponsor agrees to provide RCO with reports or documents needed to meet the requirements of the LWCF General Provisions.

SECTION 33. PROVISIONS FOR FARM AND FOREST ACCOUNT PROJECTS (FARMLAND AND FORESTLAND PRESERVATION PROJECTS ONLY)

The following sections will not apply to Farmland and Forestland Preservation Projects if covered separately in a recorded RCO approved Agricultural Conservation Easement, or Forest Conservation Easement (or other method):

- A.** Section 15 - Income and Income Use;
- B.** Section 19 - Stewardship and Monitoring;
- C.** Section 21 - Acknowledgement and Signs;
- D.** Section 24 -- Provisions Applying To Acquisition Projects, Sub-sections D, F, and G;
- E.** Section 25C -Perpetuity; and
- F.** Section 26 -- Construction, Operation, Use and Maintenance of Assisted Projects.

SECTION 34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS ONLY

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For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

SECTION 35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded in part or wholly from the Puget Sound Acquisition and Restoration program.

The Sponsor agrees to the following terms and conditions:

- A. Cost Principles/Indirect Costs For State Agencies.** GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award. In addition to the US Environmental Protection Agency's General Terms and Conditions "Indirect Cost Rate Agreements," if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.
- B. Credit and Acknowledgement.** In addition to Section 21: Acknowledgement and Signs, materials produced must display both the Environmental Protection Agency (EPA) and Puget Sound Partnership (PSP) logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." This requirement is for the life of the product, whether during or after the Agreement period of performance.
- C. Hotel Motel Fire Safety Act.** Sponsor agrees to ensure that all conference, meeting, convention, or training space funded in whole or part with federal funds, complies with the federal Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sponsors may search the Hotel-Motel National Master List @ <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance or to find other information about the Act.
- D. Drug Free Workplace Certification.** Sub-recipient (Sponsor) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E.
- E. Management Fees.** Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to the expenses added to direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs that are not allowable. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except for the extent authorized as a direct cost of carrying out the scope of work.
- F. Trafficking in Persons and Trafficking Victim Protection Act of 2000 (TVPA).** This provision applies only to a sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor), if any. Sub-recipient (Sponsor) shall include the following statement in all sub-awards made to any private entity under this Agreement.

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“You as the sub-recipient, your employees, sub-awardees under this award, and sub-awardees’ employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award.”

The sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term.

The federal agency funding this Agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.

- G. Lobbying.** The chief executive officer of this recipient agency (Sponsor) shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law. The recipient (Sponsor) shall abide by its respective Cost Principles (OMB Circulars A-21, A-87, and A-122), which generally prohibits the use of federal grant funds for litigation against the United States, or for lobbying or other political activities.

The Sponsor agrees to comply with 40 C.F.R. Part 34, New Restrictions on Lobbying. Sponsor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any Sponsor who makes a prohibited expenditure under 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure.

All contracts awarded by Sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, Sponsor affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- H. Reimbursement Limitation.** If the Sponsor expends more than the amount of RCO funding in this Agreement in anticipation of receiving additional funds from the RCO, it does so at its own risk. RCO is not legally obligated to reimburse the Sponsor for costs incurred in excess of the RCO approved budget.
- I. Disadvantaged Business Enterprise Requirements.** The Sponsor agrees to comply with the requirements of EPA’s Utilization of Small, Minority and Women’s Business Enterprises in procurements made under this award.
- J. Minority and Women’s Business Participation.** Sponsor agrees to solicit and recruit, to the maximum extent possible, certified minority owned (MBE) and women owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

These goals are expressed as a percentage of the total dollars available for purchase or agreement and are as follows:

Purchased Goods 8% MBE 4% WBE

Project Number:

USFS Number:

Purchased Services 10% MBE 4% WBE

Professional Services 10% MBE 4% WBE

Meeting these goals is voluntary and no agreement award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and Sponsor and ALL prospective bidders or people submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement :

1. Include qualified minority and women's businesses on solicitation lists .
2. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.
3. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses .
4. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses .
5. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

K. MBE/WBE Reporting. In accordance with the deviation from 40 C.F.R. §33.502, signed November 8, 2013, DBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:

1. There are any funds budgeted in the contractual/services, equipment or construction lines of the award;
2. \$3,000 or more is included for supplies; or
3. There are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as
4. Described in items (a) and (b).

When completing the form, recipients (Sponsors) should disregard the quarterly and semi-annual boxes in the reporting period Section 1B of the form. For annual submissions, the reports are due by October 30th of each year or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on planned procurements. Recipients (Sponsors) with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in Section 5B when completing the form.

MBE/WBE reports should be sent to the DBE Coordinator in the Sponsor's region . Contact information can be found at <http://www.epa.gov/osbp/contactpage.htm>. The coordinators also can answer any questions.

Project Number:

USFS Number:

Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the Sponsor must submit a final MBE/WBE report. Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

L. Procurement involving an EPA Financial Assistance Agreement. Pursuant to 40 C.F.R. § 33.301, the Sponsor agrees to make the following six good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (Sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

1. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government Sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government Sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
4. Encourage contracting with a consortium of DBEs when an agreement is too large for one of these firms to handle individually.
5. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development of the Department of Commerce.
6. If the Sponsor awards subcontracts, require the Sponsor to take the steps in paragraphs (a) through (e) of this section.

M. Lobbying & Litigation. By signing this Agreement, the Sponsor certifies that none of the funds received from this Agreement shall be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.

The chief executive officer of this Sponsor agency shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The Sponsor shall abide by its respective Attachment in 2 C.F.R. Part 200, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

For subawards exceeding \$100,000, EPA requires the following certification and disclosure forms:

1. Certification Regarding Lobbying, EPA Form 6600-06:
http://www.epa.gov/ogd/AppKit/form/Lobbying_sec.pdf
2. Disclosure of Lobbying Activities, SF LLL: http://www.epa.gov/ogd/AppKit/form/sflllin_sec.pdf

Project Number:

USFS Number:

3. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

- N. Payment to Consultants.** EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients (Sponsors) or by a recipients' (Sponsor's) contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with his/her normal travel reimbursement practices).

Subagreements with firms for services that are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (Sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.369(j), as applicable, for additional information.

As of January 1, 2014, the limit is \$602.24 per day \$75.28 per hour.

- O. Peer Review.** Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.
- P. International Travel (Including Canada).** All International Travel must be approved by the US Environmental Protection Agency's Office of International and Tribal Affairs (OITA) BEFORE travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.
- Q. Unliquidated Obligations (ULO).** Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

SECTION 36. ORDER OF PRECEDENCE

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

1. Federal law and binding executive orders;
2. Code of federal regulations;
3. Terms and conditions of a grant award to the state from the federal government;
4. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
5. State law (constitution, statute);

6. Washington Administrative Code;
7. Funding board or RCO policies.

SECTION 37. LIMITATION OF AUTHORITY

Only RCO's Director or RCO's delegate by writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate .

SECTION 38. WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default . Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing , signed by the director, or the director's designee, and attached as an amendment to the original Agreement .

SECTION 39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH

The funding board and RCO rely on the Sponsor's application in making its determinations as to eligibility for , selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement .

SECTION 40. SPECIFIC PERFORMANCE

The funding board and RCO may enforce this Agreement by the remedy of specific performance , which usually will mean completion of the project as described in this Agreement and/or enforcement of long-term obligations. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the funding board or RCO shall be deemed exclusive. The funding board or RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

SECTION 41. TERMINATION AND SUSPENSION

The funding board and RCO will require strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules and all funding board and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by the funding board. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.

A. For Cause.

1. The funding board or the director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b. If the Sponsor fails to make progress satisfactory to the funding board or director toward completion of the project by the completion date set out in this Agreement . Included in progress is adherence to milestones and other defined deadlines; or
 - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;

Project Number:

USFS Number:

2. Prior to termination, the RCO or the funding board shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director or board approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
3. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

B. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

1. The Sponsor was not in default; or
2. Failure to perform was outside Sponsor's control, fault or negligence.

C. Rights of Remedies of the RCO.

1. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
2. In the event this Agreement is terminated by the funding board or director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the funding board or director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

D. Non Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

1. **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.

SECTION 42. DISPUTE HEARING

Project Number:

USFS Number:

Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the funding board, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state :

- A.** The disputed issues;
- B.** The relative positions of the parties;
- C.** The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the third person shall be chosen by the funding board's chair.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the decision of the disputes panel, unless the remedy directed by that panel shall be without the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

SECTION 43. ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

SECTION 44. GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington . In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington .

SECTION 45. PROVISIONS APPLICABLE ONLY IF FEDERALLY RECOGNIZED INDIAN TRIBE IS THE SPONSOR

In the cases where this Agreement is between the funding board (which includes the State of Washington for purposes of this Agreement) and a federally recognized Indian Tribe, the following terms and conditions apply, but only between those parties:

Project Number:

USFS Number:

- A.** Notwithstanding the above venue provision, if the State of Washington intends to initiate legal action against a federally recognized Indian tribe relating to the performance, breach, or enforcement of this Agreement, it shall so notify the Tribe. If the Tribe believes that a good faith basis exists for subject matter jurisdiction of such an action in federal court, the Tribe shall so notify the State within five days of receipt of such notice and state the basis for such jurisdiction. If the Tribe so notifies the State, the State shall bring such action in federal court, otherwise the State may sue the Tribe in the Thurston County Superior Court, or such other superior court where venue is proper, if not proper in Thurston County. Interpretation of the Agreement shall be according to applicable State law, except to the extent preempted by federal law. In the event suit is brought in federal court and the federal court determines that it lacks subject matter jurisdiction to resolve the dispute between the State and Tribal Party, then the State may bring suit in Thurston County Superior Court or such other superior court where venue is proper, if not proper in Thurston County.
- B.** Any judicial award, determination, order, decree or other relief, whether in law or equity or otherwise, resulting from such actions under subsection A above, shall be binding and enforceable on the parties. Any money judgment or award against a Tribe, tribal officers, or employees, or the State of Washington, its agencies, or its officers and employees may exceed the amount of funding awarded under this Agreement.
- C.** As requested by RCO, the Tribe shall provide to RCO its governing requirements and procedures for entering into Agreement with RCO and waiving its sovereign immunity. In addition, the tribe shall provide to RCO all authorizations the Tribe requires to authorize the person(s) signing the Agreement on the Tribe's behalf to bind the Tribe and waive the Tribe's sovereign immunity as provided herein .
- D.** The Tribe hereby waives its sovereign immunity for suit in federal and state court for the limited purposes of allowing the State to bring and prosecute to completion such actions relating to the performance, breach, or enforcement of this Agreement as provided in subsection A above, and to bring actions to enforce any judgment arising from such actions. This waiver is not for the benefit of any third party and shall not be enforceable by any third party or by any assignee of the parties. In any enforcement action, the parties shall bear their own enforcement costs, including attorneys' fees.

For purposes of this provision, the State includes the funding board, the RCO, and any other state agencies as the term "agency" is broadly understood to include, but not be limited to, departments, commissions, boards, divisions, bureaus, committees, offices, councils, societies, etc.

SECTION 46. SEVERABILITY

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

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
Parks & Recreation	Moshe Hecht/684-8003	Justin Hellier

* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.

1. BILL SUMMARY

Legislation Title: A RESOLUTION relating to Seattle Parks and Recreation; authorizing the Superintendent of Parks and Recreation to act as the authorized representative/agent on behalf of The City of Seattle and to legally bind The City of Seattle with respect to certain projects for which the City seeks grant-funding assistance managed through the Recreation and Conservation Office.

Summary and Background of the Legislation: This proposed legislation authorizes Seattle Parks and Recreation (SPR) to submit grant applications to the State of Washington Recreation and Conservation Office (RCO) for state-funding assistance for the projects and amounts listed in the table below. This resolution is required as part of the formal RCO grant application process.

Improvements potentially funded by the RCO grant and City or other match sources are listed in the table below.

Project Name / Brief Description	RCO Category / Project #	RCO Grant Request	Match Source	Project Total \$
Colman Pool Renovation - Renovate locker rooms to make ADA accessible, create non-gender-specific restrooms and changing areas, improve Caretaker residence, update the unique operation-critical filter equipment essential for drawing and filtering water from Puget Sound, and seismic improvements.	Washington Wildlife and Recreation Program (WWRP) #22-1251	\$500,000	SPR \$1,817,360 King County Aquatics grant \$1,800,000, RCO \$350,000 (Pending)	\$4,467,360
	Youth Athletic Facilities (YAF) #22-1252	\$350,000	SPR \$1,817,360 King County Aquatics grant \$1,800,000, RCO \$500,000 (Pending)	
Rainier Beach Playfield Skatepark - Fund construction of the Rainier Beach Skatepark at Rainier Beach Playfield which includes demolition, erosion control, grading, installation of green stormwater infrastructure, a skateboard facility, picnic shelters, circular	Land and Water Conservation Fund (LWCF) #22-1253	\$1,000,000	SPR \$917,000, WWRP - \$500,000 (pending), Neighborhood Matching - \$33,000, Neighborhood Matching - \$50,000	\$2,500,000

Project Name / Brief Description	RCO Category / Project #	RCO Grant Request	Match Source	Project Total \$
pathway, seating, tables, and landscaping. This project is outlined in the 2007 Seattle Citywide Skatepark Plan was created to locate and build skateparks.	WWRP #22-1255	\$500,000	SPR \$917,000, LWCF - \$1,000,000 (pending), Neighborhood Matching - \$33,000, Neighborhood Matching - \$50,000	
Carkeek Park Rail Overpass - To replace the existing railroad crossing pedestrian bridge that provides the only safe, park access point to the beach which is the only safe access to the beach. The current pedestrian bridge is at the end of its useful life.	Aquatic Lands Enhancement Account (ALEA) #22-1257	\$500,000	SPR \$1,300,000, WWRP \$1,800,000 (Pending)	\$3,600,000
	WWRP #22-1256	\$1,800,000	SPR \$1,300,000, ALEA \$500,000 (Pending)	
Little Brook Park Improvements - To redesign and enhance Little Brook Park to better highlight the creek, better serve the growing neighborhood and diverse residents. The current proposed design includes play areas, site furnishings, a central gathering space, and a garden interwoven into the natural systems.	LWCF #22-1258	\$800,000	SPR \$470,000, WWRP \$500,000 (pending), King County Water Works \$30,000	\$1,800,000
	WWRP #22-1259	\$500,000	SPR - \$470,000, LWCF \$800,000 (pending), King County Water Works - \$30,000	
Soundview Playfield Improvements - Renovate an existing grass playfield to synthetic turf and state-of-the-art LED lighting system within 10-acre Soundview Park. It will enhance playability, improve safety, and add a new ADA accessible looped walking path, bleacher seating, a batting cage, and seat walls.	LWCF #22-1262	\$2,000,000	SPR \$3M, WWRP \$500,000 (Pending), YAF \$350,000 (Pending)	\$5,850,000
	YAF #22-1261	\$350,000	SPR \$3M, WWRP \$500,000 (Pending), LWCF \$2M (Pending)	
	WWRP #22-1260	\$500,000	SPR \$3M, YAF \$350,000 (Pending), LWCF \$2M (Pending)	
	Totals	\$8,800,000	\$9,417,360*	\$18,217,360

*Does not include RCO matching funds

SPR applies for RCO grants bi-annually and has garnered a strong success rate in securing additional funding for planned capital projects. In 2022, SPR completed 11 RCO applications for a total of \$8,095,000 in the following RCO grant categories:

RCO Grant Category	Amount
Aquatic Lands Enhancement Act (ALEA)	\$500,000
Land and Water Conservation Fund (LWCF)	\$3,800,000
Washington Wildlife and Recreation Program (WWRP)	\$2,000,000
Washington Wildlife and Recreation Program (WWRP) Water Access	\$1,800,000
Youth Athletic Facilities (YAF)	\$700,000
Total:	\$8,800,000

The RCO grants require a local match and will only fund projects that are included in an adopted plan. The recommended projects meet both criteria, as they are either included in SPR’s Asset Management Plan, the 2017 Parks and Open Space Plan, 2007 Citywide Skatepark Plan, the 2016-2021 Capital Improvement Program, and/or the Seattle Park District Major Maintenance Plan. SPR’s required matching funds for the projects are appropriated in SPR’s 2022-2023 Capital Improvement Program.

RCO will announce the grant award recommendations in Q2 2023, but the actual grant awards will not be contracted until Q4 2023. RCO funding will support currently unfunded project elements.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ___ Yes X No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

Project Name:	Project I.D.:	Project Location:	Start Date:	End Date:	Total Project Cost Through 2027:

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ___ Yes X No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

No

Are there financial costs or other impacts of *not* implementing the legislation?

Failure to seek grant funding will result in greater City funding for project completion.

4. OTHER IMPLICATIONS

- a. **Does this legislation affect any departments besides the originating department?**
No other departments are affected.
- b. **Is a public hearing required for this legislation?**
No
- c. **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No
- d. **Does this legislation affect a piece of property?**
Yes. Maps are attached as Summary Attachment A
- e. **Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

Rainier Beach Skatepark and **Little Brook Park Improvement** projects are in ethnically diverse and underserved communities. Both projects serve communities beyond their immediate vicinity and completion of these projects will ensure that the parks are open and accessible to all. Both projects support the City's Race and Social Justice Initiative (RSJI) and have strong inclusive grassroots neighborhood leadership and support.

Little Brook Park Improvement planning meetings - Interpreters translated outreach materials into Spanish, Urdu, and Amharic to gather input from non-English speakers and translators were present at community events with multiple language interpreters working in English, Spanish, Urdu, and Amharic.

Carkeek Park Rail Overpass, Coleman Pool & Soundview Playfield Improvements are projects that are regional in nature, providing improved access to park facilities that attract patrons from across the city.

Carkeek Park Rail Overpass incorporates ADA access to the bridge where there wasn't before.

Coleman Pool project incorporates ADA access and is the only outdoor pool in South Seattle.

Sound View Playfield Improvements will create a new lit synthetic field increasing booking capacity and reducing pressure on the overall system.

All projects serve communities beyond their immediate vicinity and completion of these projects will ensure that these parks are open and accessible to all. Receipt of these monies are critical to the completion of each of these projects.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

Carbon emission from material production will be minimal. Green spaces and bike racks may reduce these emissions over time. Renovated fields will mean greater access to neighborhood fields reducing commute distances and carbon emissions for participants.

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

Each of these projects is incorporating climate resilient practices where possible in the design and construction resulting in an increase in Seattle’s climate resiliency. Carkeek Park project in particular provides beach access which is critical to the salmon restoration work that happens at the park.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)?

N/A

Summary Attachments:

Summary Attachment A – Project Maps

Attachment A – Project Maps



22-1251 Colman Pool Renovation
Sponsor: Seattle Parks & Rec Dept.
Program: WWRP - Local Parks



 Project Boundary
 Park Boundary
S34 T24N R3E

0 175 350 700 US Feet


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No warranties of any sort, including accuracy, fitness or merchantability accompany this product.

Map date: March 8, 2022



Seattle
Parks & Recreation
healthy people healthy environment strong communities

22-1252 Colman Pool Renovation
Sponsor: Seattle Parks & Rec Dept.
Program: YAF - Large



- Project Boundary
 - Park Boundary
- S34 T24N R3E



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Map date: March 8, 2022



Seattle
Parks & Recreation
healthy people healthy environment strong communities

22-1253 Rainier Beach Playfield Skatepark
Sponsor: Seattle Parks & Rec Dept.
Program: Land and Water Conservation Fund



- Project Boundary
- Park Boundary

S34 T24N R4E

0 45 90 180 US Feet

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
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Map date: March 8, 2022



22-1255 Rainier Beach Playfield Skatepark
Sponsor: Seattle Parks & Rec Dept.
Program: WWRP - Local Parks



-  Project Boundary
-  Park Boundary

S34 T24N R4E



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22-1257 Carkeek Park Rail Overpass Sponsor: Seattle Parks & Rec Dept. Program: Aquatic Lands Enhancement Act



 Project Boundary
 Park Boundary
S26/25 T26N R3E

0 230 460 920 US Feet


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22-1256 Carkeek Park Rail Overpass Sponsor: Seattle Parks & Rec Dept. Program: WWRP - Water Access



-  Project Boundary
 -  Park Boundary
- S26/25 T26N R3E



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Map date: March 8, 2022





Seattle
Parks & Recreation
healthy people healthy environment strong communities

22-1258 Little Brook Park Improvements

Sponsor: Seattle Parks & Rec Dept.
Program: Land and Water Conservation Fund

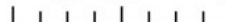


-  Project Boundary
-  Park Boundary

S21 T26N R4E

Note: Project Boundary corresponds with Park Boundary

0 25 50 100 US Feet



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Map date: March 8, 2022



22-1259 Little Brook Park Improvements

Sponsor: Seattle Parks & Rec Dept.
Program: WWRP - Local Parks



 Project Boundary

 Park Boundary

S21 T26N R4E

Note: Project Boundary corresponds with Park Boundary

0 25 50 100 US Feet



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Map date: March 8, 2022



22-1262 Soundview Playfield Conversion

Sponsor: Seattle Parks & Rec Dept.
Program: Land and Water Conservation Fund



- Project Boundary
- Park Boundary

S35 T26N R3E



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Map date: March 8, 2022



22-1261 Soundview Playfield Conversion

Sponsor: Seattle Parks & Rec Dept.
Program: YAF - Large



-  Project Boundary
-  Park Boundary

S35 T26N R3E



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22-1260 Soundview Playfield Conversion Sponsor: Seattle Parks & Rec Dept. Program: WWRP - Local Parks



- Project Boundary
- Park Boundary

S35 T26N R3E



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Map date: March 8, 2022



Legislation Text

File #: Inf 2099, **Version:** 1

Seattle Parks Presentation on Off-Leash Areas

Seattle's Off-Leash Area Program

Seattle Parks and Recreation

City Council Public Assets and Homelessness Committee

August 3, 2022

Seattle Parks and Recreation



City of Seattle **66**

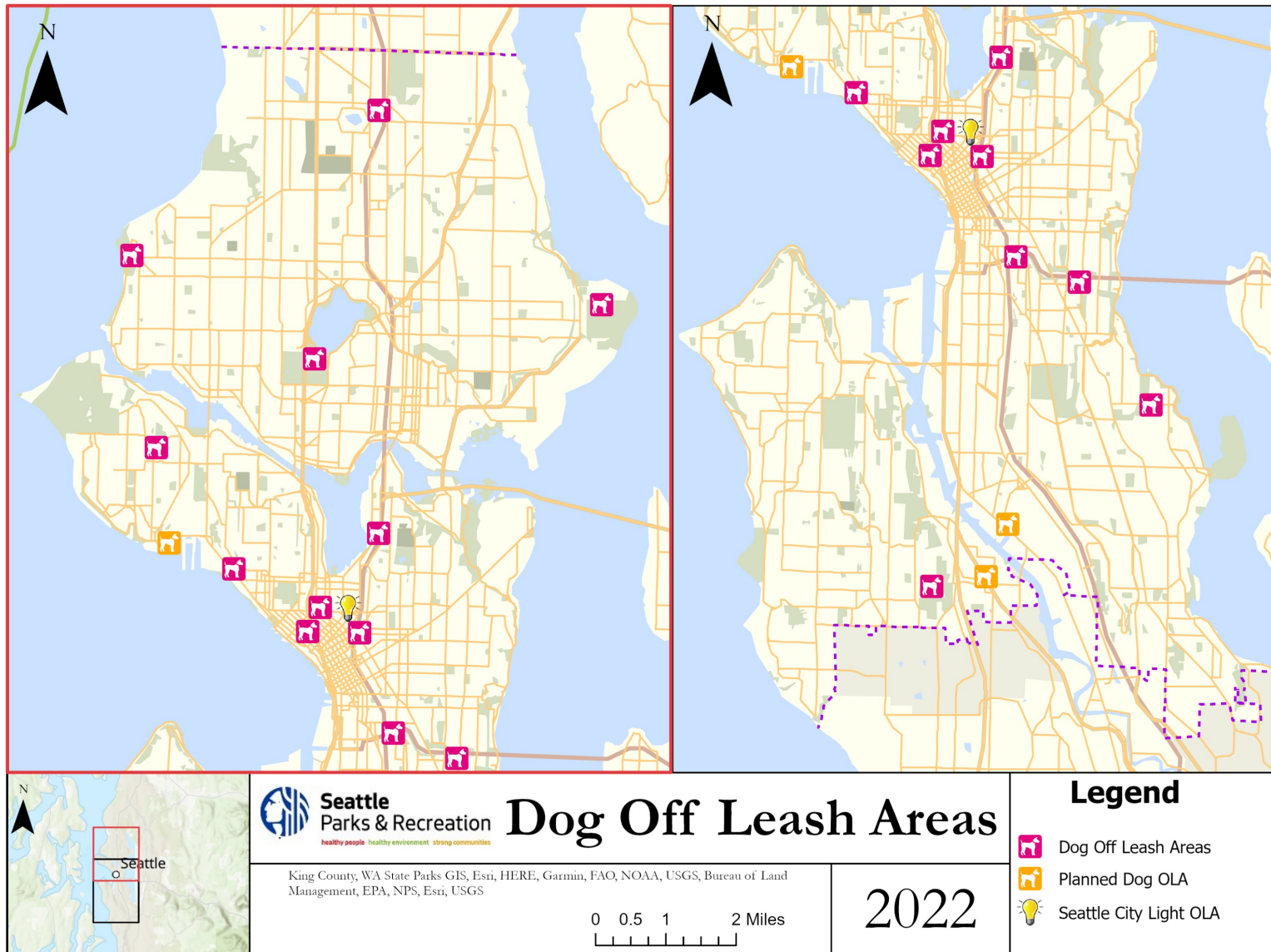
Today's Topics

- ▶ **Overview of Seattle's Off-Leash Area (OLA) program**
- ▶ **Maintenance of OLAs**
- ▶ **Expansion of the OLA system**
- ▶ **Educational campaigns**
- ▶ **Enforcement**
- ▶ **What's on the horizon**
- ▶ **Questions?**

Current Off Leash Area System



- ▶ Seattle's Off-Leash Area (OLA) system dates back to 1997
- ▶ The current 15 fenced OLAs total roughly 28 acres of park land
 - ▶ Ranging in size from 9 acres to 0.1 acres
 - ▶ This, in addition to over 400 parks where leashed dogs are allowed to walk, exercise and have fun
 - ▶ Dogs are not allowed at any time on organized athletic fields, beaches, or children's play areas in Seattle parks, per the Seattle Municipal Code
- ▶ Among the top 12 park systems in the country, TPL ranks Seattle in the top 5 in terms of access to dog parks per capita



Maintenance of OLAs



- ▶ SPR partners with community organizations maintenance of OLAs
 - ▶ Magnuson Off-Leash Group (MOLG)
 - ▶ Citizens for Off-Leash Areas (COLA)
- ▶ These groups partner with us in...
 - ▶ Day-to-day operations of the OLA
 - ▶ Maintaining a clean and safe environment for OLA visitors
 - ▶ Recruiting volunteer stewards and organizing work parties
 - ▶ Educating OLA visitors about rules and etiquette
 - ▶ Reporting minor and major maintenance needs
 - ▶ Proposing improvements and new amenities
 - ▶ Fundraising and sponsorships

Maintenance of OLAs



- ▶ SPR staff provide support to OLA volunteer stewards by...
 - ▶ Leading major improvements and installation of new amenities
 - ▶ Providing materials for work parties when requested
 - ▶ Regularly emptying dumpsters and trash cans
 - ▶ Tree assessment and mowing of grass
 - ▶ Responding to and repairing damages from vandalism
 - ▶ Reviewing and approving special maintenance projects at OLAs

Major Maintenance at OLAs

- ▶ Seattle Park District provides roughly \$100K annually for major maintenance projects at OLAs
- ▶ Between 2017 – 2021 SPR spent \$635,000 on these projects
 - ▶ There is an annual investment that equates to \$120,000 in 2022
- ▶ Examples of projects
 - ▶ Grading improvements at Magnolia Manor
 - ▶ Installing agility equipment at Golden Gardens
 - ▶ ADA and drainage improvements at Westcrest
 - ▶ Small and shy dog area at Genesee
 - ▶ Resurfacing and Fencing
 - ▶ Natural restoration



Expansion of the OLA system

- ▶ Various strategies for expanding our OLA system:
 - ▶ Adding OLAs through new park/redevelopment projects
 - ▶ Considering land-banked undeveloped sites as OLA opportunities
 - ▶ Proposals by community members
 - ▶ Inter-agency partnerships
 - ▶ Privately owned property

Standards for New OLAs

▶ Threshold Criteria:

- ▶ Not be located in a park that is a designated Seattle landmark, or be listed on the state or federal register of historic places
- ▶ Not be located in natural areas under active restoration, or in an environmentally critical area
- ▶ No conflict with existing park uses in a way that creates safety issues
- ▶ Have preliminary approval from the site owner, if not on SPR land

Further Considerations



- ▶ Site must be ADA accessible (or a plan must be created to make it accessible)
- ▶ Site must not have significant vegetation and large trees
- ▶ Proposed site must be at least 50 ft. away from other property lines
- ▶ Flat sites are preferred to slopes, because surfacing erodes over time on slopes
- ▶ Consideration for access to parking spots or accessibility by public transportation
- ▶ High visibility into the site

Educational Campaigns

Pups, Poop & Parks - here's the scoop

We want to keep our furry friends safe along with everyone else. In the video below, meet Buddy the dog and learn where he can roam on and off leash in Seattle, and about the importance of following leash and poop scoop rules to ensure a positive, safe park experience for all, and to support a healthy environment!



In Seattle, pups are welcome in parks as long as they are on a leash; but even better are the 14 exciting exceptions! At these designated off-leash areas, Fido is free to run, roll over, meet new friends, work out, play with his owners and socialize with his canine friends.

[New educational video on best practices for dogs and their owners](#)



New infographic, describing the negative impacts of abandoned dog waste on our environment

Enforcement



- ▶ Animal Control Officers at the Seattle Animal Shelter are responsible for enforcing the laws and codes involving animals within the city of Seattle
 - ▶ Aggressive behavior by dogs; cruelty; animal abuse; or an animal-related threat to public safety
- ▶ SPR staff and community members regularly share reports of incidents involving dogs with Animal Control
- ▶ ACOs conduct emphasis patrols in OLAs and parks where they are receiving repeated reports

On the Horizon

- ▶ Some new strategies:
 - ▶ Pursuing smaller, neighborhood OLAs
 - ▶ Increasing focus on geographical equity
 - ▶ Inter-agency partnerships
 - ▶ Adjusting standards where possible, allowing for more OLA opportunities
- ▶ New OLAs in the queue:
 - ▶ Georgetown Flume Property; SPR + SPU + SDOT partnership
 - ▶ South Park Community Center Site Redevelopment
 - ▶ Smith Cove Park Development



Questions?





Legislation Text

File #: Inf 2098, **Version:** 1

City Hall Park Land Swap Proposal

City Hall Park Intergovernmental Land Transfer

Seattle City Council Public Assets and Homelessness committee meeting

July 6, 2022

2:00 PM

King County Council Motion 15955

In concert with direction from the council, Executive Constantine worked with then Mayor Durkan to propose a transfer of City Hall Park to the county in exchange for county owned property within the Seattle city limits.

The King County Council adopted this proposed transfer through Ordinance 19379 on December 14, 2021.

Photo of Property to be received by King County

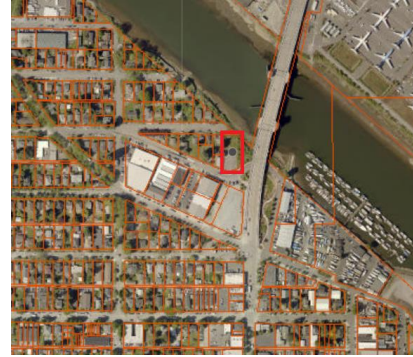


Address of Property to be Received by King County:

400 Third Avenue, Seattle

Photo of Parcels to be Received by City of Seattle:

Roads Property: 1239 S Rose Street, KCPN 218500-0895



Wastewater Property: Cesar Chavez Park: 700 S Cloverdale St, KCPN 788360-3130



Metro Property: 1403 NW 54th Street, KCPN 276830-0455



Tax Title and Facilities Properties:

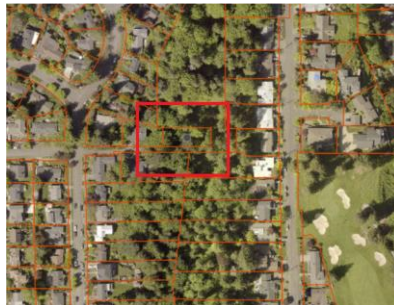
Cesar Chavez Fragment 8401 7th Ave S, KCPN 788360-2915



Sunset Hill Viewpoint Park, KCPN 047200-1460



Inverness Ravine, KCPN342604-9188



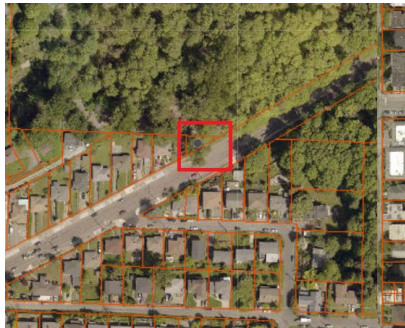
W Duwamish GB – SW Othello, KCPN 211520-0100



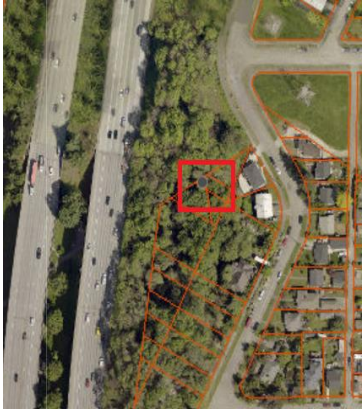
E Duwamish GB – S Massachusetts, KCPN 539260-0080



Cheasty Green Space – S Columbian Way, KCPN 417460-0014



E Duwamish GB – 10th Ave S, KCPN 395940-1891



Burke Gilman Greenway – S, KCPN 735220-0730



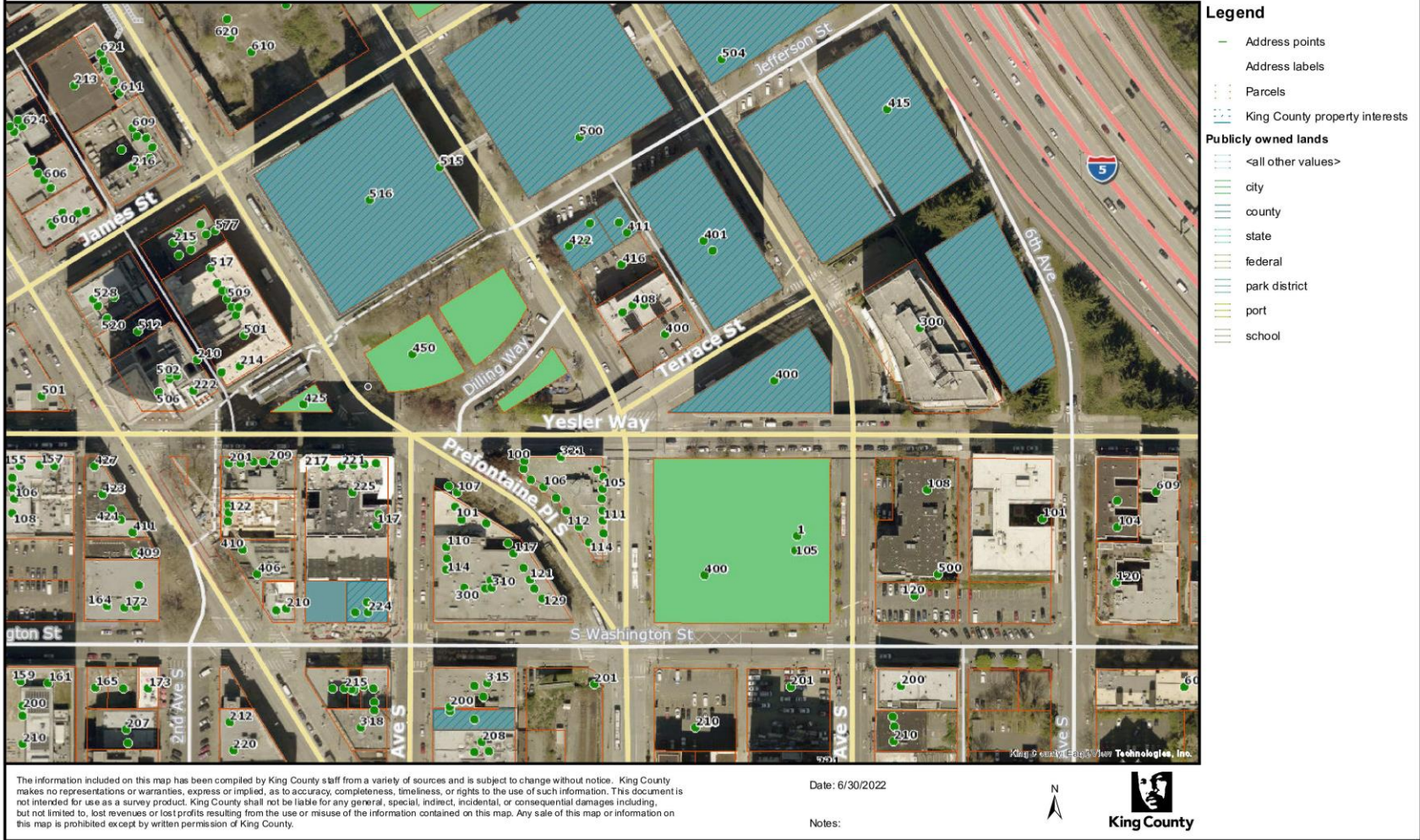
Burke-Gilman Greenway – N, KCPN 882090-2280



Duwamish Head GB – SW Walker St, 915160-0735



King County iMap



Upon transfer, King County’s first priority is the safe reopening of City Hall Park. The county is committed to a public process prior to activation of the park, and it will remain green space.

The acquisition of City Hall Park by the County would inform and relate to the current civic campus planning initiative by offering a consistent ownership framework with a range of strategies aimed at increasing the viability of the City Hall Park as part of a holistic, safe, and welcoming urban environment.

We will work with community partners to develop and evaluate options for park activation, and the potential revival of the Courthouse south entrance.



Circa 1949



Circa 2018



April 1, 2022

MEMORANDUM

To: Public Assets and Homelessness Committee
From: Traci Ratzliff, Ann Gorman, Lish Whitson, Analysts
Subject: Proposed legislation authorizing transfer of City Hall Park to King County in exchange for County-owned properties

On November 19, 2021, the Executive transmitted proposed legislation authorizing the transfer of City Hall Park to King County in exchange for the City receiving 13 County-owned properties. The City Council chose not to take up this legislation before the end of the year, given the timing of its submittal. The Public Assets and Homelessness Committee will be briefed on this legislation by the King County Executive on Wednesday, April 6 at 2 p.m.

This memorandum provides (1) history of King County's action on the proposed legislation, (2) background on the proposed legislation, (3) a summary of the bill, and (4) next steps for consideration of the proposed legislation.

History of King County's Action

On October 19, 2021, the Metropolitan King County Council adopted [Motion 15955](#) that, among other things, requested the County Executive to transmit a report to the King County Council by January 15, 2022. The motion requested that the report include:

- A description of the key factors driving violence and disorder around the courthouse and prior efforts to address the problem;
- A plan to address safety concerns in and around the courthouse, including City Hall Park; and
- If an agreement between the City of Seattle and King County to acquire City Hall Park has not been reached by December 31, 2021, an assessment of options for the County to acquire City Hall Park from the City of Seattle including the financial, operational, legal and land use considerations associated with the acquisition of the property.

The County executive transmitted [this report](#) on January 14, 2021. The report describes possible tactics for addressing safety and security concerns at City Hall Park assuming the County takes ownership of the park, and states that prior to taking actions to open the park, the County would engage with community stakeholders and employees to develop a comprehensive plan for activating the park and vicinity. The report also states that resources would be required to support the successful reactivation of the park. The report did not provide an estimate of the costs associated with such efforts.

In addition, the report did not provide the requested information concerning options for the park property, including the financial, operational, legal and land use considerations associated

with the transfer of the property from the City, implying that such information could not be provided because the City had not yet approved the transfer, despite specific language in the motion requesting this information be provided if an agreement between the City and County had not been reached. King County Council staff indicate they do not expect to receive any further information from the County Executive regarding this requested information until/if the City approves the transfer.

On December 14, the King County Council adopted [Ordinance 19379](#) authorizing the transfer of 13 County properties in exchange for City Hall Park. The County Council made two amendments to the legislation, one to the ordinance and one to Attachment A to the ordinance (the Intergovernmental Land Transfer Agreement that was, prior to the amendment, identical to what was transmitted to the City Council). The amendment to the ordinance requires the County Executive (1) to facilitate a public process to help determine how the park will be used; and (2) to transmit a report including results and recommendations from that process to the County Council. The amendment to the Intergovernmental Land Transfer Agreement (Attachment A to the ordinance) modifies the covenant for City Hall Park to clarify its intended use by the County as public open space, a park, a recreation and community facility, or for the expansion of existing County facilities or other public benefit purpose.

Background

The City purchased the old King County Courthouse from the County in 1891. It was used as a City office building until 1909 when it was demolished, and the property was redeveloped into City Hall Park. The park has been managed by Seattle Parks and Recreation (SPR) since that time.

In response to concerns about public health and safety at City Hall Park and the surrounding areas (Dilling Way, Prefontaine Plaza, Fortson Square), the Courthouse Vicinity Improvement (CVI) working group -- consisting of representatives from King County, City of Seattle, Sound Transit, Metropolitan Improvement District, and Pioneer Square businesses and organizations -- began meeting in January 2017. Over the next three years, this group worked collaboratively to increase public safety services, sanitation, site activation activities, and to make site improvements at City Hall Park and the surrounding Yesler Crescent area that includes Prefontaine Plaza and Fortson Square. The City appropriated \$970,000 in the 2019 Adopted Budget to support operating costs associated with the aforementioned activities, excluding public safety costs: capital planning and design work focused on how to enhance circulation, encourage park activation and preservation (\$470,000); and the refurbishment of the Prefontaine Fountain (\$500,000). To date, \$541,000 has been spent. The remaining \$429,000 will be used for the Prefontaine Fountain. With the arrival of the pandemic, SPR paused efforts focused on this area as the department was called on to participate in the City's broader efforts to respond to the pandemic. A homeless encampment formed in the park in 2020 and remained there until its removal by the City and County in August 2021. The park is currently entirely fenced off and closed to the public.

Summary of Proposed Legislation

Property Exchange

The proposed ordinance authorizes the Superintendent of Seattle Parks and Recreation to execute an Intergovernmental Land Transfer Agreement, which details the transfer of the City Hall Park property in exchange for 13 King County-owned properties at no cost.

The legislation states that the requirements of [Ordinance 118477](#) (1997), which adopted Initiative 42, are superseded and that the property is no longer needed for municipal purposes and is surplus to the City's needs. Ordinance 118477 requires "that all properties designated as park, park boulevard, or open space, are to be preserved for such use and cannot be sold, transferred, or changed from park use to another use, unless the City holds a public hearing regarding the transaction and enacts an ordinance finding that the transaction is necessary because there is no reasonable and practical alternative." In addition, the City must receive in exchange for such property "land or a facility of equivalent or better size, value, location and usefulness in the vicinity, serving the same community and the same park purposes." Under the terms of Ordinance 118477, a transfer of property to the County without need for replacement property would be permissible if the property were going to be used for park and recreation purposes.

Although the proposed legislation specifically exempts the transaction from the provisions of Ordinance 118477, it is also governed by two state statutes, [RCW 39.33.010](#) and [RCW 43.09.210](#). Under the terms of RCW 39.33.010, the City and the County may exchange property "on such terms and conditions as may be mutually agreed upon. . . ." Under the terms of RCW 43.09.210, the City and County must be paid "true and full" value for the property transfers. When transmitting the proposed legislation, the Executive indicated it believed that state law was more flexible than requiring that "fair market value" be paid for the properties. The Executive cited a [1997 Attorney General's Opinion \(AGO\)](#) as providing support for this approach to value. This AGO opinion seems to support the ability of two governments to negotiate a transfer of property in exchange for "some consideration which could be a monetary payment, other property, services performed for the transferring government, or perhaps even relief from a burden."

The proposed legislation affirmatively states that the exchange of City Hall Park for the County properties is consistent with the provisions of the two statutes. The proposed covenants on the deeds of the properties will restrict the type of use that can occur on each property, and these restrictions will impact the fair market value of each of them (see below for descriptions of the covenants).

City Hall Park totals 24,500 square feet (0.56 acres). The County-owned properties total 57,956 square feet (1.33 acres). All but one of the County-owned properties are in the City of Seattle. The one property located outside the city limits is in South Park. This property is the largest of the properties proposed for transfer (17,268 square feet). It is across the street from the South

Park Plaza property that is being developed as a new park by SPR. The acquisition of the property would allow it to be incorporated into the planning and development of the planned park. In total, the City would secure legal ownership of more property than it would give up in this transaction. Several of the parcels proposed for transfer are in existing City-maintained parks (Cesar Chavez, Sunset Hill) and P-Patch space (Greg's P-Patch), and their transfer arguably would not add net park land to the City given existing uses of these parcels (see Attachment 1 and Attachment 2 for description and location map of transfer properties). However, because King County could try to sell all or some of the parcels to other parties or to the City, the proposed transaction does have the effect of securing them in City ownership without cost.

While the total area that would be exchanged to the City is approximately 2.5 times the size of City Hall Park, the relative value of the properties that would be exchanged has not been determined. An appraisal has not been performed on these properties and is not anticipated to be performed. City Hall Park is zoned Pioneer Square Mixed 100/100-120, a zone that allows lot-line to lot-line development up to 120 feet (approximately 12 stories). The other properties are predominantly zoned single-family and allow significantly less development. Given the difference in development potential and the central location of City Hall Park, it may be worth more than the other properties.

Covenants

The deeds for each of the City and County properties involved in the property exchange will contain specific covenants concerning the allowable uses of the properties. These covenants are as follows:

- *For the 13 County-owned properties* - The City commits to continued use of such properties as either public open space, park, or recreation and community facility purposes or that other equivalent facilities within the city shall be conveyed in exchange.
- *For City Hall Park* - The County commits that City Hall Park will continue to be used for public open space, a park, a recreation and community facility, the expansion of existing County facilities, or other public benefit purpose, provided that any such purpose shall be for use by the general public and primarily noncommercial in nature.

The discrete covenant for City Hall Park is intended to prevent the County from using the property other than for the stated public purposes (park, open space, expansion of County facilities) and/or from selling it to a developer for commercial purposes. The above language reflects what the County Council approved when it adopted the transfer legislation. It is preferred to the language that was in the legislation transmitted by the Executive, as it provides greater restriction on potential uses of the property. However, it does not limit the use of the property to that of a public park or open space only. If that is the City Council's intended desire, the covenant language would need to be modified to impose such a restriction.

Financial Obligations

Per the terms of the Intergovernmental Land Transfer Agreement, the County and the City are each responsible for any financial obligations related to their respective properties up until the time of conveyance or transfer. These obligations include any property taxes or any contractual obligations including any fines, as well as any utility charges if any are due or owing. Additionally, each party is responsible for any title insurance it obtains, Real Estate Excise Tax obligation, and all other transaction costs. The City would also bear the costs of petitioning for the vacation of two abutting streets, as discussed below.

Property Condition and Environmental Considerations

Each party agrees to accept each property in as-is condition and assumes responsibility for all operations, maintenance, repairs, and improvements of each property after approval of the transaction.

Each party agrees to waive the Seller's Real Estate Disclosure Statement, the waiver of which is allowed under [RCW 64.06.010](#), except for the section entitled "Environmental." Each party must complete that section for their respective properties.

Importantly, the agreement does not allow the parties to waive statutory claims under state or federal environmental statutes and it requires the parties to provide notice within 60 days of discovering contamination that could give rise to a statutory claim for contribution. Given the number and location of properties the City is acquiring in this transaction and the potential for contamination, the agreement provides the City with the ability to seek payment from the County for clean-up of hazardous materials if such materials were deposited or released on the County properties by the County during its period of ownership of the properties. SPR has ordered Phase I environmental studies on each of the 13 properties to assess them for the presence of contamination. Based on the outcome of these studies further studies may be ordered, as warranted. The information provided from these studies could impact whether further negotiation is needed related to the potential clean-up of sites – or in determining if the City still has interest in acquiring a specific site. Staff await an update on the results of the preliminary studies.

Street Vacation

The legislation further states that the City, through SPR, will seek to vacate Jefferson Street and Dilling Way between Third Avenue and Fourth Avenue adjacent to City Hall Park at its sole cost. The street vacation petition is not currently before the Council. At a later date, King County will have to show the purpose, benefits, and impacts of the street vacations at a public hearing and before the Council in the context of a full street vacation petition as provided in the Council's [Street Vacation Policies](#). As with any street vacation, public benefits would need to be provided outside of those typically provided by the County in its day-to-day functions. In the legislation, the City has agreed to cover the costs of the street vacation, including compensation for the

appraised value of the right-of-way, and to help initiate a petition. The legislation does not require the Council to approve the vacation.

Next Steps

The City Hall Park property is currently in use as a public park, albeit one that is temporarily closed to the public. The disposition of the park is not categorically exempt from State Environmental Policy Act (SEPA) review (See [SMC 25.05.800.E.2](#)). The City must comply with procedural SEPA requirements, which include preparation of a checklist and issuance of a SEPA threshold determination with associated appeal and comment periods. Council action on the proposed legislation transferring the property cannot occur until those SEPA procedural requirements are met (See [SMC 25.05.070.A](#)). The SEPA checklist and issuance of the threshold determination are expected within the next few weeks. A 21-day appeal and comment periods would follow. If the SEPA determination finds that there are probable significant impacts of the transfer or if a SEPA determination of no significant impacts is appealed, the Council would need to wait to take final action until all environmental review steps have been completed.

The legislation could be scheduled for committee at any time but consideration by the full City Council could not occur until all environmental review steps are complete. A public hearing needs to be held on the proposed transfer of property before adoption of the legislation per [RCW 39.33.020](#). A public notice must be issued at least ten days prior to the date of the public hearing. The public hearing can easily be incorporated into the planned Committee meeting on the legislation.

Attachments:

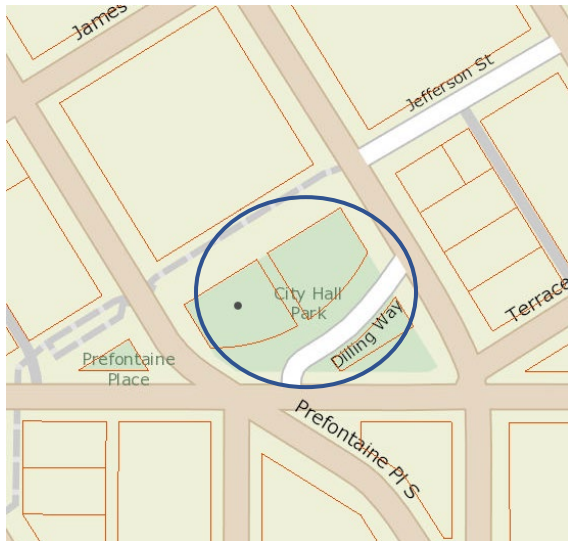
1. List and description of Transfer Properties
2. Map of Property Transfers

cc: Aly Pennucci, Interim Director
Brian Goodnight, Lead Analyst

Attachment 1: List and description of Transfer Properties

City Hall Park

40 3rd Ave, #094200-1145, 24,500 sf:



County-owned Property 1:

1239 S Rose Street, #218500-0895, 17,268 sf:

EAST SOUTH PARK ADD & 22 THRU 25 LESS COM WW # 1 LESS RD PER
ORDINANCE# 16876 REC# 20150413000569; **Plat Block: 12; Plat Lot: 1-6, 47-50**

Attachment 1: List and description of Transfer Properties



County-owned Property 2 and Property 3 (Cesar Chavez Park):

700 S Cloverdale St, #788360-3130, 7,980 sf

LOTS 44 THROUGH 48, INCLUSIVE, BLOCK 15, SOUTH PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 87, RECORDS OF KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONVEYED TO THE CITY OF SEATTLE BY DEEDS RECORDED UNDER KING COUNTY RECORDING NUMBERS 3751997, 3780239 AND 3786361 FOR WEST MARGINAL WAY; AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 4827578 FOR PRIMARY STATE HIGHWAY NO. 1 Cesar Chavez Park – 475 sf, #788360-2915

LOTS 1, 2, 3 AND 4, BLOCK 15, SOUTH PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 87, RECORDS OF KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONVEYED TO THE CITY OF SEATTLE BY DEEDS RECORDED UNDER KING COUNTY RECORDING NUMBER 3841312 FOR WEST MARGINAL WAY; AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBERS 4827578 AND 4827579 FOR PRIMARY STATE HIGHWAY NO.

1

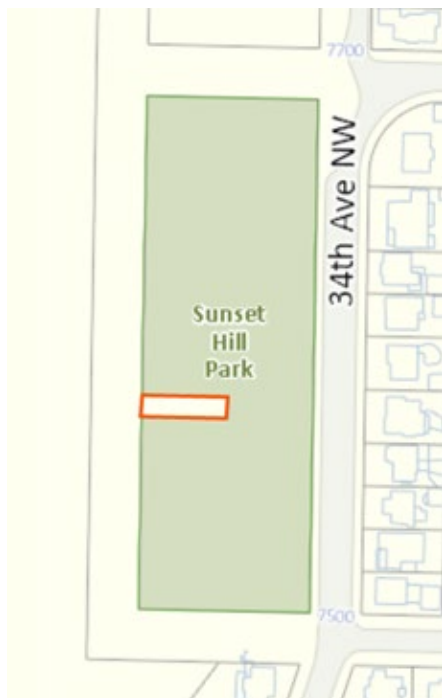
Attachment 1: List and description of Transfer Properties



County-owned Property 4:

Sunset Hill Viewpoint Park, #047200-1460, 2,500 sf:

BALLARD WATER-FRONT ADD; Plat Block: 6; Plat Lot: 34



County-owned Property 5:

Inverness Ravine. #342604-9188, 7,208 sf:

**E 136 FT OF W 150 FT OF POR OF N 53 FT OF S 68 FT OF SE 1/4 OF SW 1/4 LY E OF
BLK D BALCHS WEDGEWOOD PARK # 4**

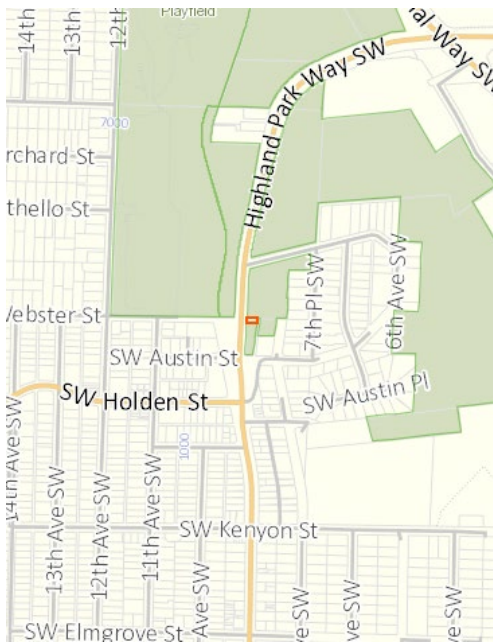
Attachment 1: List and description of Transfer Properties



County-owned Property 6:

W Duwamish GB – SW Othello, #211520-0100, 3,030 sf:

DUMARS HIGHLAND PARK SUPL LESS ST; **Plat Block: F; Plat Lot: 12**

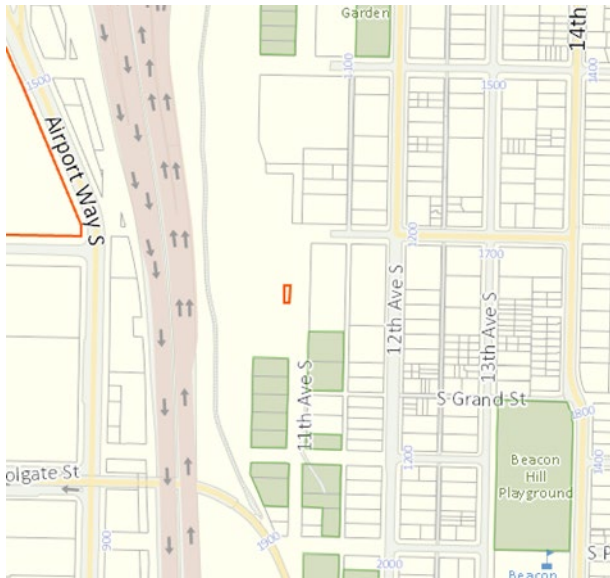


County-owned Property 7

E Duwamish GB - S Massachusetts, #539260-0080, 1,120 sf:

MCNAUGHTS 3RD ADD LESS STATE HWY; **Plat Block: 2; Plat Lot: 7**

Attachment 1: List and description of Transfer Properties



County-owned Property 8

Cheasty Green Space – S Columbian Way, #417460-0014, 2,358 sf:

F W LAMPE HOMESTEAD ADD VOL 1 PG 255, PTN Tract 2



County-owned Property 9

E Duwamish GB – 10th Ave S, #395940-1891, 251 sf:

LADDS 2ND ADD TO S SEATTLE POR SWLY OF LN DRWN MIDWAY BET 10TH AVE S & COLFAX PLACE; **Plat Block: 21; Plat Lot: 11**

Attachment 1: List and description of Transfer Properties



County-owned Property 10 and Property 11

Burke-Gilman Greenway – N, #882090-2280, 5,450 sf:

UNIVERSITY LAKE SHORE DIV # 1-2-3 UNPLATTED STRIP ADJ ALL OF LOT 12 & 13;
Plat Block: 17; Plat Lot: 12-13

Burke-Gilman Greenway – S, #735220-0730, 5,500 sf:

RIVIERA BEACH DIV # 3 POR UNNUMBERED STRIP BET N P R/W & 12 FT RD & N OF
A LN 1563.05 FT N OF S LN OF SEC & SD DIST BEING MEAS ALG E LN OF LAKESIDE
AVE & SD LN BEING DRAWN AT R/A TO SD AVE & S OF N LN OF S 210 FT OF BLK 2
LAKESIDE CITY PRO D E



County-owned Property 12

Duwamish Head GB – SW Walker St, #915160-0735, 291 sf:

WALNUT TERRACE ADD FOUNTAIN TRACT

Attachment 1: List and description of Transfer Properties

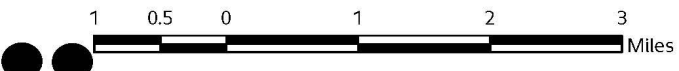
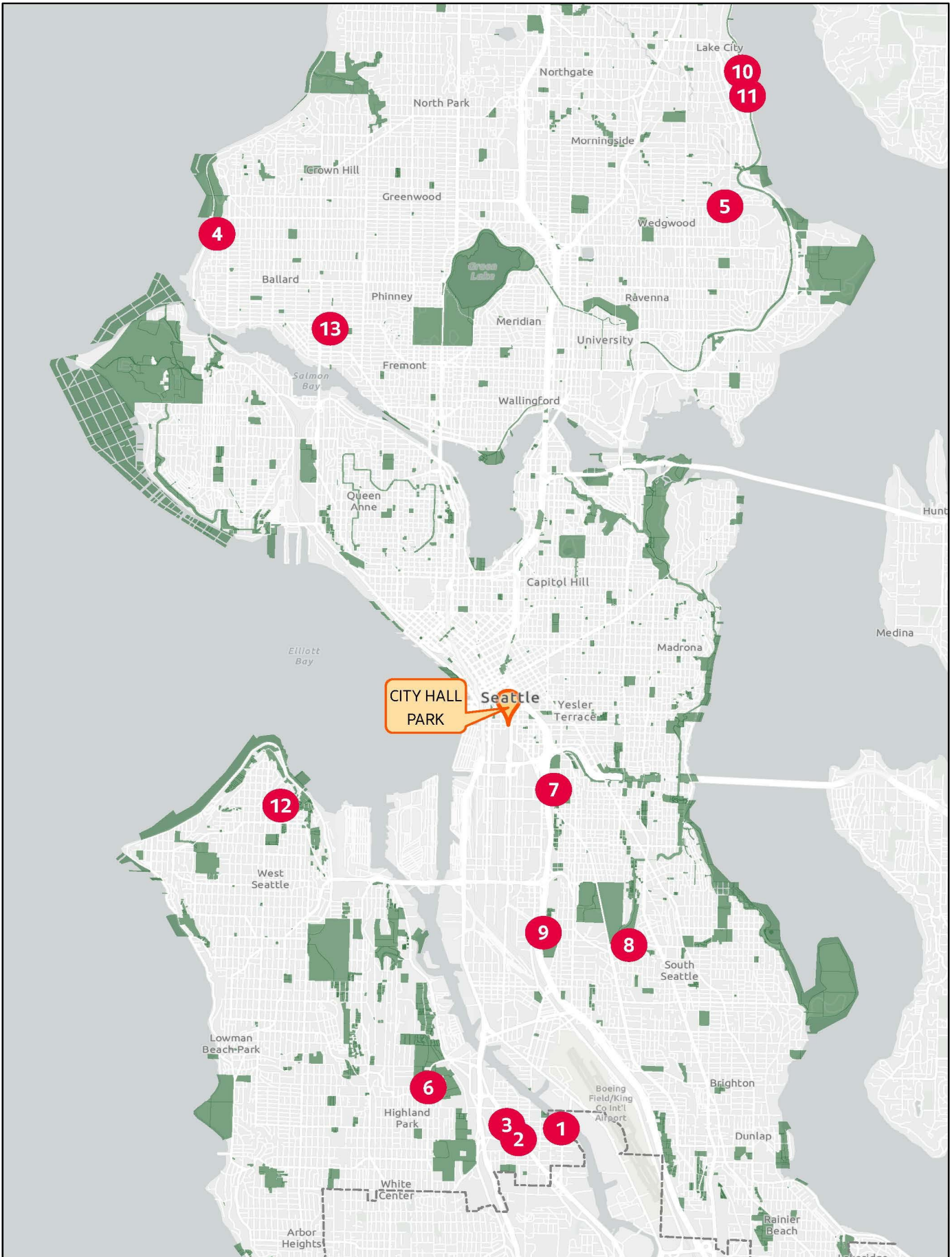


County-owned Property 13

Ballard P-Patch, # 276830-0455, 5,000 sf

Lot 11, Block 135, Gilman Park, according to the plat thereof recorded in Volume 3 of Plats, Page 40, records of King County, Washington.





This map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.

Please refer to **Exhibit 2: Property Listing: Identification of CHP & KC Properties 1-13 with Maps**, for numbered parcel data.

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