

WASHINGTON STATE  
DEPARTMENT OF  
E C O L O G Y

**WASHINGTON STATE WATER POLLUTION CONTROL REVOLVING FUND**

**LOAN AGREEMENT**

**BETWEEN**

**THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY**

**AND**

**CITY OF TACOMA**

Project Title: Central Treatment Plant Upgrade

Loan No.: L0400006

Loan Amount: \$52,000,000

Interest Rate: 1.5%

Loan Term: 20 years

Effective: September 19, 2003

**WASHINGTON STATE WATER POLLUTION CONTROL REVOLVING FUND  
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 AND  
 CITY OF TACOMA**

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**WASHINGTON STATE WATER POLLUTION CONTROL REVOLVING FUND  
LOAN AGREEMENT BETWEEN  
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY  
AND THE  
CITY OF TACOMA  
FOR  
TACOMA CENTRAL TREATMENT PLANT UPGRADE**

THIS is a binding loan agreement entered into by and between the state of Washington, Department of Ecology (the "DEPARTMENT"), and the City of Tacoma (the "RECIPIENT"). The purpose of this loan agreement (the "AGREEMENT") is to provide funds to the RECIPIENT (the "LOAN") to carry out the activities described herein (the "PROJECT").

This AGREEMENT consists of 16 pages and nine (10) attachments. This AGREEMENT incorporates by attachment and by reference the documents listed in ATTACHMENT 1.

Capitalized terms used, but not otherwise defined, in this AGREEMENT are defined in ATTACHMENT 2.

**I. THE PARTIES**

**A. RECIPIENT Information**

Name and Address: City of Tacoma  
Department of Public Works  
2201 Portland Avenue  
Tacoma, WA 98421-2711

Contact: Dave Koberstein, P.E.  
Telephone Number: 253-502-2112  
E-Mail Address: dkoberst@cityoftacoma.org  
Fax Number: (253) 502-2107

Federal Taxpayer ID Number: 91-6001283

**B. DEPARTMENT Information**

Address: Water Quality Program  
Washington State Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600

Project Manager: Charles Meyer, P.E.  
Address: Southwest Regional Office  
Water Quality Program

City of Tacoma  
Tacoma Central Treatment Plant Upgrade Project  
Loan No. L0400006

Telephone Number:  
E-Mail Address:  
Fax Number:

Washington State Department of Ecology  
P.O. Box 47775  
Olympia, WA 98504-7775  
(360) 407-6318  
cmey461@ecy.wa.gov  
(360) 407-6305



Financial Manager:  
Address:

Brian Howard  
Financial Management Section  
Water Quality Program  
Washington State Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600  
(360) 407-6510  
brho461@ecy.wa.gov  
(360) 407-6426

Telephone Number:  
E-Mail Address:  
Fax Number:

Pilot Rule Coordinator:  
Address:

Dan Filip  
Financial Management Section  
Water Quality Program  
Washington State Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600  
(360) 407-6519  
dfil461@ecy.wa.gov  
(360) 407-6426

Telephone Number:  
E-Mail Address:  
Fax Number:

### C. Changes to Contact Information

The RECIPIENT may modify its Contact designated above or the Contact for billing/invoice questions shown in Section V-B-1, and the DEPARTMENT may modify its Project Manager, Financial Manager, or Pilot Rule Coordinator by letter to that effect mailed to the others at the respective addresses shown in Sections I-A, V-B-1. and I-B

## II. AUTHORITY

### A. Authority of RECIPIENT

This AGREEMENT is authorized (i) by the Constitution and laws of the state of Washington, including the RECIPIENT's authority thereunder, and (ii) by the RECIPIENT pursuant to the ordinance or resolution attached hereto as ATTACHMENT 3.

## **B. Opinion of RECIPIENT's Legal Counsel**

The DEPARTMENT has received an opinion of legal counsel to the RECIPIENT in the form and substance of ATTACHMENT 4.

## **III. TERM OF AGREEMENT**

The effective date of this AGREEMENT shall be the date this AGREEMENT is signed by the DEPARTMENT's Water Quality Program Manager. Any work performed prior to the effective date of this AGREEMENT without prior written authorization of the DEPARTMENT will be at the sole expense and risk of the RECIPIENT. Prior authorization has been granted by the DEPARTMENT for eligible work commencing on September 20, 2002 (the "prior authorization date"). Any work performed prior to the prior authorization date will be at the sole expense and risk of the RECIPIENT.

This AGREEMENT shall remain in effect until the date of final repayment of the LOAN, unless terminated earlier according to the provisions herein.

## **IV. THE PROJECT**

### **A. PROJECT Description**

The Tacoma Central Wastewater Treatment Plant Facility Plan, approved March 6, 2002, identified several areas in the facility where hydraulic capacity is limited, and the result is that during peak flows, raw and partially treated wastewater is discharged to surface waters, resulting in violation of water quality regulations. The Facility Plan also evaluated alternatives to reuse water reclaimed from the treatment facility

The Facility Plan recommendation is to upgrade the facility with improvements to influent screening and pumping, grit removal, solids handling, effluent pumping, chlorination and the construction of a ballasted sedimentation process to treat peak flows. The increase in capacity, along with improvements to the collection system (not part of this project), will eliminate overflows of untreated and/or partially treated wastewater to surface waters, except possibly during the most extreme wet weather events.

One component of this project consists of the design and construction of the planned improvements. The City will complete design and construction in accordance with the Alternative Contracting/Service Agreement (AC/SA) Provisions of the Pilot Rule Amending WAC 173-98-060 (ATTACHMENT #9) and the MEMORANDUM OF AGREEMENT between the DEPARTMENT and the RECIPIENT delegating review under RCW 90.48.110(2) (ATTACHMENT 10).

The Facility Plan also recommended further evaluation of the reclamation alternatives described in Chapter 9. The second component of this project consists of the preparation of a Water Reclamation Facility Plan Amendment that further evaluates the reclamation alternatives described in Chapter 9 of the Facilities Plan. This amendment will comply with WAC 173-240 Submission of Plans and Reports for Construction of Wastewater Facilities, 40CFR Part 35.2030 Facilities Planning and RCW 90.46



- |  |                                      |
|--|--------------------------------------|
| 4. Ecology Acceptance of draft RFP:  | estimated August 11, 2003            |
| 5. Ecology Approval of Service Agreement (D/B Contract):                               | estimated October 31, 2004           |
| 6. Ecology Approval of Ballasted Sedimentation Facility Plan Amendment (if necessary): | estimated August 1, 2004             |
| 7. Construction Start Date:  | estimated August 1, 2004             |
| 8. Mid-project review (Meet w/ Ecology):   | estimated February 1, 2006 (18 mos.) |
| 9. Initiation of Operation Date:   | estimated August 1, 2007 (36 mos.)   |
| 10. Ecology Approval of Water Reclamation FP Amendment:                                | estimated October 1, 2005            |
| 11. Required Submittals to Ecology:  |                                      |
| a. Plan of Interim Operation, accepted by operator(s)                                  | estimated August 1, 2004             |
| b. Interim Progress Reports  | quarterly (minimum)                  |
| c. As-built Drawings   | estimated February 1, 2008           |
| d. Declaration of Construction   | estimated February 15, 2008          |
| e. O&M Manual, accepted by operator(s)   | estimated March 1, 2008              |
| f. End of Project Comprehensive Report to Ecology                                      | estimated March 1, 2008              |
| 12. PROJECT Completion Date  | May 1, 2008                          |

Any changes to the PROJECT Schedule must be effected through a formal amendment to this AGREEMENT as provided in Section IX hereof.

The useful life of the PROJECT is 20+ years.

**F. Special Reporting Requirements. (In accordance with the Pilot Rule and Guidelines)**

1. At the mid-project review(s) scheduled in the loan agreement and the end-of- project review, a detailed analysis must include any cost or time efficiencies derived from the process; any impediments imposed by the process, etc.; and any general recommendations to change the process in the future. The end-of-project review must be in the form of a comprehensive report to the Water Quality Program Manager.

2. Quarterly project progress reports in accordance with current guidance should also highlight these matters as they are identified.

3. The RECIPIENT should address informal questions, concerns, and recommendations to the Pilot Rule Coordinator shown in section I-B.

Insofar as possible, participants should address such information via e-mail. The Pilot Rule Coordinator will document and coordinate responses with the Project Manager and Financial Manager.

**V. THE LOAN**

**A. Source and Availability; LOAN Amounts; LOAN Terms**

DEPARTMENT Funding Source: Washington State Water Pollution Control Revolving Fund (SRF)



Subject to all of the terms, provisions, and conditions of this AGREEMENT, and subject to the availability of state funds, the DEPARTMENT will loan to the RECIPIENT the sum of fifty two million dollars (\$52,000,000) (the "Estimated LOAN Amount").

When the PROJECT Completion Date or the Initiation of Operation Date has occurred (if appropriate), the DEPARTMENT and the RECIPIENT will execute an amendment to this AGREEMENT which details the final LOAN amount (the "Final LOAN Amount"), and the DEPARTMENT will prepare a final LOAN repayment schedule, substantially in the form of ATTACHMENT 8. The Final LOAN Amount will be the combined total of actual disbursements and all accrued interest to the computation date.

The Estimated LOAN Amount and the Final LOAN Amount (in either case, as applicable, a "LOAN Amount") shall bear interest at the rate of 1.5% per annum, calculated on the basis of a 365-day year. Interest on the Estimated LOAN Amount will accrue from and be calculated based on the date that each payment is mailed to the RECIPIENT. The Final LOAN Amount shall be repaid semiannually over a term of 20 years, as provided in ATTACHMENT 8.

## B. Requests for Payment

1. Procedure. Payments to the RECIPIENT shall be made on a reimbursable basis at least quarterly and no more often than once per month. Each request for payment will be submitted by the RECIPIENT, along with documentation of the expenses per the DEPARTMENT's ADMINISTRATIVE REQUIREMENTS, on an A19-1A payment request form and other required forms provided by the DEPARTMENT. Payment requests shall be submitted by the RECIPIENT to the Financial Manager of the DEPARTMENT. Payments shall be made only for eligible PROJECT costs incurred and shall not exceed the Estimated LOAN Amount.

Instructions for submitting payment requests are found in ADMINISTRATIVE REQUIREMENTS, PART IV. A copy of this document shall be furnished to the RECIPIENT.

RECIPIENT contact for billing/invoice questions:

Contact:

Telephone Number:	Shari Hayes (253) 502-8523
E-Mail Address:	shays@cityoftacoma.org
Fax Number:	(253) 502-8791

2. Disbursement Address. The DEPARTMENT shall make payments to the RECIPIENT and shall mail those payments as follows:

Payable To:	City of Tacoma
RECIPIENT Name:	Michael Carlson
Address:	Environmental Services Accounting 3628 S. 35 <sup>th</sup> Street

Tacoma, WA 98409-3115

3. Period of Payment. Payments shall only be made for eligible costs of the PROJECT pursuant to the AGREEMENT and performed after the effective date and prior to the expiration date of the AGREEMENT, unless those dates are specifically modified in writing as provided in Section III or pursuant to Section IX herein.

4. Ineligible Costs. If any audit identifies LOAN funds which were used to support ineligible costs, such funds may be immediately due and payable to the DEPARTMENT notwithstanding any provision to the contrary herein.

5. Overhead Costs. No payment for overhead costs in excess of 25 percent of salaries and benefits of the RECIPIENT shall be allowed.

6. Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this AGREEMENT remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the PROJECT or to repay the principal of or interest on the LOAN, have occurred since the date of this AGREEMENT. Any changes in the foregoing shall be specifically disclosed in writing to the DEPARTMENT by the RECIPIENT in its request for payment.

### C. Sources of LOAN Repayment

1. Nature of RECIPIENT'S Obligation. The obligation of the RECIPIENT LOAN from the sources identified below and to perform and observe all of the other obligations on its part contained herein shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind.

2. Revenue-Secured; Lien Position. This LOAN is a Revenue-Secured Debt of the RECIPIENT'S Utility. This LOAN shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations. To secure the repayment of the LOAN from the DEPARTMENT, the RECIPIENT agrees to comply with all of the covenants and agreements herein including, but not limited to, those contained in Section VII of this AGREEMENT.

3. Other Sources of Repayment. The RECIPIENT may repay any portion of the LOAN from any funds legally available to it other than those pledged in Section V-C-2 hereof.

4. Defeasance of the LOAN; Refinancing or Additional Financing of the PROJECT. So long as the DEPARTMENT shall hold this LOAN, the RECIPIENT shall not be entitled to, and shall not effect, an economic Defeasance of the LOAN. The RECIPIENT also shall not refinance the PROJECT, including making an advance refunding of the LOAN, or obtain grants or loans additional to those listed in Section IV hereof to finance the PROJECT, without the written consent of the DEPARTMENT.

If the RECIPIENT defeases or advance refunds the LOAN or obtains additional grants or loans for the PROJECT without DEPARTMENT consent, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay

- (i) the LOAN Amount with interest, and
- (ii) any other obligations of the RECIPIENT to the DEPARTMENT under this AGREEMENT,

unless in its sole discretion the DEPARTMENT finds that repayment from those additional sources would not be in the public interest.

Failure to repay the LOAN Amount plus interest within the time specified in the DEPARTMENT's notice to make such repayment shall incur Late Charges under Section V-D-2 and shall be treated as a LOAN Default under Section VIII-A hereof.

#### **D. Method and Conditions on Repayments**

1. Semiannual Payments. Notwithstanding any other provision of this AGREEMENT, the first semiannual payment of principal and interest on this LOAN shall be paid not later than the earlier of

- (i) one (1) year after the PROJECT Completion Date or Initiation of Operation Date, or
- (ii) five (5) years from the first payment by the DEPARTMENT.

Equal payments shall be due every six months thereafter.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:

Cashiering Section  
Washington State Department of Ecology  
P.O. Box 5128  
Lacey, WA 98509-5128

No change to the amount of the semiannual principal and interest payments shall be made without a formal amendment to this AGREEMENT. The RECIPIENT will continue to make semiannual payments based on this AGREEMENT until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended AGREEMENT.

2. Late Charges. If any amount of the Final LOAN Amount or any other amount owed to the DEPARTMENT pursuant to this AGREEMENT remains unpaid after it becomes due and payable, the DEPARTMENT may assess a late charge (a "Late Charge"). The Late Charge shall be additional

interest at the rate of one percent per month, or fraction thereof, starting on the date the debt becomes past due and continuing until the debt is paid in full. The RECIPIENT hereby agrees to pay such Late Charge. Nothing contained herein affects the DEPARTMENT'S default rights in Section VIII-C of this AGREEMENT.

3. Repayment Limitations. Repayment of the LOAN is subject to the following additional limitations, among others: those on Defeasance, refinancing and advance refunding, and additional financing contained in Section V-C-4; and on termination, default and recovery of payments contained in Section VIII hereof.

4. Prepayment of LOAN. So long as the DEPARTMENT shall hold this LOAN, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the LOAN, or any portion of the remaining unpaid principal balance of the LOAN Amount. Any prepayments on the LOAN will be applied first to any accrued interest due, and then to the outstanding principal balance of the LOAN Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact the DEPARTMENT'S Revenue/Receivable Manager of the Fiscal Office.

## VI. REPRESENTATIONS AND WARRANTIES

The RECIPIENT represents and warrants to the DEPARTMENT as follows:

### A. Existence; Authority.

It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this AGREEMENT and to undertake the PROJECT identified herein.

### B. Application; Material Information.

All information and materials submitted by the RECIPIENT to the DEPARTMENT in connection with its LOAN application were when made, and are as of the date the RECIPIENT executes this AGREEMENT, true and correct. There is no material adverse information relating to the RECIPIENT, the PROJECT, the LOAN or this AGREEMENT known to the RECIPIENT which has not been disclosed in writing to the DEPARTMENT.

### C. Litigation; Authority.

No litigation is now pending or, to the RECIPIENT'S knowledge, threatened, seeking to restrain or enjoin (i) the execution of this AGREEMENT, or (ii) the fixing or collection of the revenues, rates, and charges pledged to pay the principal of and interest on the LOAN, or (iii) in any manner questioning the proceedings and authority under which the AGREEMENT, the LOAN or the PROJECT are authorized. Neither the corporate existence or boundaries of the RECIPIENT nor the title of its present

officers to their respective offices is being contested. No authority or proceeding for the execution of this AGREEMENT has been repealed, revoked, or rescinded.

**D. Not a General Obligation.**

This AGREEMENT and the LOAN to be made hereunder do not constitute a general obligation debt of the RECIPIENT or the state of Washington.

**E. Due Regard.**

The RECIPIENT has exercised due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the Loan Fund a greater amount of the Gross Revenue of the Utility than in its judgment will be available over and above such Maintenance and Operation Expense and those debt service requirements.

**VII. COVENANTS AND AGREEMENTS**

**A. Acceptance.**

The RECIPIENT accepts and agrees to comply with all terms, provisions, conditions, and commitments of this AGREEMENT, including all incorporated and referenced documents, and to fulfill all assurances, declarations, representations, and commitments made by the RECIPIENT in its application, accompanying documents and communications filed in support of its request for a LOAN.

**B. Project Results and Work Toward an Eventual Environmental Result**

Having projected specific project results and work toward an eventual environmental result, the RECIPIENT agrees to complete a brief survey and accept an assessment conducted by Ecology staff in July 2010. The survey will, at least, include the following items:

1. The ONE, most critical specific project result actually achieved:
2. Describe Performance Measure(s) that Quantitatively Demonstrate Effectiveness of the Project (specifically, before/after data; for example, summaries of compliance reports, statistically valid water quality data and trends, new or restored fish species and quality of habitat, salmonid returns, shellfish upgrades, clearly documented behavioral changes):
3. Work to achieve the "Eventual Environmental Results:" Compliance with NPDES (health based) discharge permit and address water quality standards violations in the Class A Puyallup River and Class C Thea Foss Waterway.
4. The then current status of compliance with NPDES (health based) discharge permit and water quality standards restoration of the Class A Puyallup River and Class C Thea Foss Waterway at the time of the assessment:

5. Documentation (that should include digital color pictures, as appropriate, graphic trends, etc.) that evidence the continued maintenance and effectiveness of the project at the time of the assessment:

Approximately one month prior to the assessment timeframe above, the DEPARTMENT'S Performance Measures Lead (see below) will send the RECIPIENT the Performance Assessment Report Form. This form is to be completed and both mailed and sent, as an email attachment, to the DEPARTMENT'S Project Manager and the DEPARTMENT'S Water Quality Program's Performance Measures Lead (presently, Dan Filip [dfil461@ecy.wa.gov](mailto:dfil461@ecy.wa.gov)) during the negotiated timeframe noted above.

The DEPARTMENT may conduct an on-site inspection or otherwise provide further assessment of the project. The DEPARTMENT will enter the information provided into its performance measures database to be provided to the Legislature, EPA, and other natural resource agencies. The Performance Measures Lead will be available during negotiations; throughout the project; and the post-project assessment period; as a resource, as needed.

#### **C. Accounts and Records.**

The RECIPIENT will keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to this AGREEMENT.

#### **D. Alteration and Eligibility of PROJECT.**

During the term of this AGREEMENT, the RECIPIENT (i) shall not materially alter the design or structural character of the PROJECT without the prior written approval of the DEPARTMENT and (ii) shall take no action which would adversely affect the eligibility of the PROJECT as a Washington State Water Pollution Control Revolving Fund project under Chapter 173-98 WAC, "Uses and Limitations of the Water Pollution Control Revolving Fund," or which would cause a violation of any covenant, condition, or provision herein.

#### **E. Pledge of Net Revenue.**

For so long as the LOAN is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility to pay when due the principal of and interest on the LOAN.

#### **F. Maintenance and Operation of Utility.**

The RECIPIENT will at all times maintain and keep the Utility in good repair, working order and condition and also will at all times operate the Utility and the business in connection therewith in an efficient manner and at a reasonable cost.



**G. Reserve Requirement.**

For loans that are Revenue-Secured Debt with terms greater than five (5) years, the RECIPIENT must accumulate a reserve for the LOAN equivalent to at least the Average Annual Debt Service on the LOAN during the first five (5) years of the repayment period of the LOAN. This amount shall be deposited in a Reserve Account in the LOAN Fund in approximately equal annual payments commencing within one year after the Initiation of Operation or the PROJECT Completion Date, whichever comes first. "Reserve Account" means, for a LOAN that constitutes Revenue-Secured Debt, an account of that name created in the Loan Fund to secure the payment of the principal of and interest on the LOAN. The amount on deposit in the Reserve Account may be applied by the RECIPIENT (i) to make, in part or in full, the final repayment to the DEPARTMENT of the LOAN Amount or, (ii) if not so applied, for any other lawful purpose of the RECIPIENT once the LOAN Amount, plus interest and any other amounts owing to the DEPARTMENT hereunder, have been paid in full.

**H. Free Service.**

The RECIPIENT will not furnish Utility service to any customer free of charge if providing that free service will affect the RECIPIENT'S ability to meet the obligations of this AGREEMENT.

**I. Sale or Disposition of Utility.**

The RECIPIENT will not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the Utility or any real or personal property comprising a part of the Utility unless:

1. The facilities or property transferred are not material to the operation of the Utility, or shall have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the Utility or are no longer necessary, material, or useful to the operation of the Utility; or
2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three (3) percent of the total assets of the Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the Utility from the portion of the Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.  
The proceeds of any transfer under this paragraph shall be used (i) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the LOAN, and/or (ii) to provide for part of the cost of additions to and betterments and extensions of the Utility.

	A	B	Total
2009	3,195,492.92	1,442,300.84	4,637,793.76
2010	3,195,492.92	1,442,300.84	4,637,793.76
2011	3,195,492.92	1,442,300.84	4,637,793.76
2012	3,195,492.92	1,442,300.84	4,637,793.76
2013	3,195,492.92	1,442,300.84	4,637,793.76



## J. Insurance.

The RECIPIENT will at all times carry fire and extended coverage, public liability and property damage, and such other forms of insurance with responsible insurers and with policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, including being self insured, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it will self-insure or will participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

## VIII. TERMINATION AND DEFAULT; REMEDIES

### A. Termination and Default Events

1. For Insufficient DEPARTMENT or RECIPIENT Funds. This AGREEMENT may be terminated by the DEPARTMENT for insufficient DEPARTMENT or RECIPIENT funds.
2. For Failure to Commence Work. This AGREEMENT may be terminated by the DEPARTMENT for failure of the RECIPIENT to commence PROJECT work.
3. Past Due Payments. The RECIPIENT will be in default of its obligations under this AGREEMENT when any LOAN repayment becomes sixty (60) days past due.
4. Other Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this AGREEMENT. The RECIPIENT will be in default of its obligations under this AGREEMENT if, in the opinion of the DEPARTMENT, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this AGREEMENT including, but not limited to, the PROJECT Schedule contained in Section IV-E hereof.

### B. Procedures for Termination

If this AGREEMENT is terminated prior to PROJECT completion, the DEPARTMENT shall provide to the RECIPIENT a written notice of termination at least five (5) working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the DEPARTMENT shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the LOAN and all accrued interest (the "Termination Payment Date").

### C. Termination and Default Remedies

1. No Further Payments. On and after the Termination Date or in the event of a default event, the DEPARTMENT may, in its sole discretion, withdraw the LOAN and make no further payments

under this AGREEMENT.

2. Repayment Demand. In response to a termination event, except in the circumstances described in Section VIII-A-1 above, or in response to a default event, the DEPARTMENT may in its sole discretion demand that the RECIPIENT repay the outstanding balance of the LOAN Amount and all accrued interest.
3. Interest after Repayment Demand. From the time that the DEPARTMENT demands repayment of funds under Section VIII-B or Section VIII-C-2 hereof, amounts owed by the RECIPIENT to the DEPARTMENT shall accrue additional interest at the rate of one percent per month, or fraction thereof.
4. Accelerate Repayments. In the event of a default event, the DEPARTMENT may in its sole discretion declare the principal of and interest on the LOAN immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligations upon the Net Revenue. Repayments not made immediately upon such acceleration shall incur Late Charges as provided in Sections V-D-2 and VIII-C-5 hereof.
5. Late Charges. All amounts due to the DEPARTMENT and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur Late Charges as provided in Section V-D-2 hereof.
6. Intercept State Funds. In the event of a default event and in accordance with RCW 90.50A.060, "Defaults," any state funds otherwise due to the RECIPIENT may, in the DEPARTMENT's sole discretion, be withheld and applied to the repayment of the LOAN.
7. Property to DEPARTMENT. In the event of a default event and at the option of the DEPARTMENT, any property (equipment and land) acquired under this AGREEMENT may in the DEPARTMENT's sole discretion become the DEPARTMENT's property. In that circumstance, the RECIPIENT's liability to repay money shall be reduced by an amount reflecting the fair value of such property.
8. Documents and Materials. If this AGREEMENT is terminated, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared hereunder by the RECIPIENT shall, at the option of the DEPARTMENT, become DEPARTMENT property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.
9. Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this AGREEMENT.
10. Fees and Expenses. In any action to enforce the provisions of this AGREEMENT,

reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in RCW 4.84.330, "Actions on contract or lease . . . —Waiver prohibited."

11. Damages. Notwithstanding the DEPARTMENT's exercise of any or all of the termination or default remedies provided in Section VIII-C-1 through VIII-C-10 above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the state of Washington because of any breach of this AGREEMENT by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

### IX. MODIFICATIONS TO AGREEMENT

Participants may withdraw from the pilot rulemaking process by explaining their rationale and; as needed, by providing details on what parts of the process were problematic for them in a written report to the Water Quality Program Manager after consulting with Ecology staff and the Pilot Rule Coordinator. The Program Manager may accept the withdrawal in writing with or without conditions, or may direct staff to negotiate with participants to determine whether or not the withdrawal is necessary.

Withdrawal and amendment or termination provisions will be in accordance with this AGREEMENT, and they may include provisions to amend the AGREEMENT to provide for the conventional step 1, 2, 3 process, etc.

No subsequent amendments to this AGREEMENT shall be of any force or effect unless reduced to a writing and signed by authorized representatives of the RECIPIENT and the DEPARTMENT, and made part hereof, except:

1. Any change of the RECIPIENT'S LOAN AGREEMENT Contact, or the Contact for billing/invoice questions, or of the DEPARTMENT'S Project Manager or Financial Manager or the Pilot Rule Coordinator as set forth respectively in Sections I-A, V-B-1, and I-B hereof, may be made by either party as provided in Section I-C; or

2. Insubstantial modifications, such as frequency and number of required submittals, budget allocations not affecting the total LOAN Amount and similar changes requested by the RECIPIENT in writing, may be approved in writing by the Project Manager of the DEPARTMENT.

No amendment to this AGREEMENT shall be effective until accepted or affirmed in writing by the DEPARTMENT.

In no event shall any oral agreement or oral commitment be effective to amend this AGREEMENT.


**X. ALL AGREEMENTS CONTAINED HEREIN**

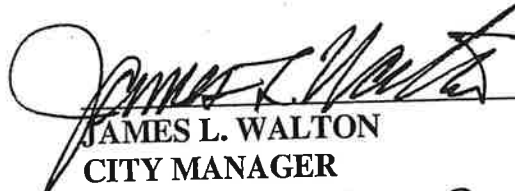
This Agreement, including the incorporated documents, contains the entire understanding between the parties, and there are no other understandings or representations other than those set forth or incorporated by reference herein. No subsequent substantive amendments to this Agreement shall be of any force or effect unless made in conformity with Section IX hereof.

IN WITNESS WHEREOF, the DEPARTMENT and the RECIPIENT have executed this AGREEMENT as of the dates set forth below, to be effective as provided above.

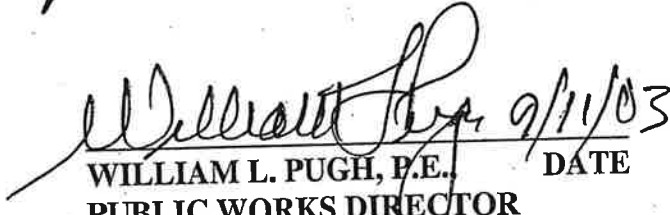
STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

CITY OF TACOMA

  
\_\_\_\_\_  
RICHARD K. WALLACE      9/19/03      DATE  
MANAGER  
WATER QUALITY PROGRAM

  
\_\_\_\_\_  
JAMES L. WALTON      DATE  
CITY MANAGER

APPROVED AS TO FORM ONLY  
ASSISTANT ATTORNEY GENERAL


  
\_\_\_\_\_  
WILLIAM L. PUGH, P.E.      9/11/03      DATE  
PUBLIC WORKS DIRECTOR

  
\_\_\_\_\_  
STEVEN R. MARCOTTE,      9/11/03      DATE  
DIRECTOR OF FINANCE

  
\_\_\_\_\_  
DEBBIE DAHLSTROM,      9-11-03      DATE  
INTERIM RISK MANAGER

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ASSISTANT CITY ATTORNEY      9-5-03  
Attest:      DATE

  
\_\_\_\_\_  
DORIS SORUM,      9-17-03      DATE  
CITY CLERK

(10/2/02)

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**ATTACHMENT 1**

**DOCUMENTS INCORPORATED  
BY ATTACHMENT OR BY REFERENCE**

Each of the following documents is incorporated by attachment or by reference and shall have the same force and effect as if contained in the AGREEMENT:

**A. By Attachment:**

- ATTACHMENT 1: DOCUMENTS INCORPORATED BY ATTACHMENT OR BY REFERENCE
- ATTACHMENT 2: AGREEMENT DEFINITIONS
- ATTACHMENT 3: AUTHORIZING ORDINANCE OR RESOLUTION
- ATTACHMENT 4: OPINION OF RECIPIENT'S LEGAL COUNSEL
- ATTACHMENT 5: SCOPE OF WORK
- ATTACHMENT 6: SPECIAL TERMS AND CONDITIONS
- ATTACHMENT 7: LOAN GENERAL TERMS AND CONDITIONS
- ATTACHMENT 8: LOAN REPAYMENT SCHEDULE
- ATTACHMENT 9: PROVISIONS OF THE PILOT RULE AMENDING WAC 173-98-060

**B. By Reference:**

- The DEPARTMENT'S WATER QUALITY FINANCIAL ASSISTANCE PROGRAMS FOR FISCAL YEAR 2003—VOLUME ONE: GUIDELINES, VOLUME TWO: APPENDICES, AND VOLUME THREE: LAWS AND RULES (December 2001) (hereinafter, "GUIDELINES")
- The DEPARTMENT's Administrative Requirements for Ecology Grants and Loans (October 2000) (hereinafter, "ADMINISTRATIVE REQUIREMENTS")
- If and when executed by the RECIPIENT and the DEPARTMENT, each Loan Agreement Amendment
- Declaration of Construction—Form ECY 040-2-28(b)
- RECIPIENT'S legislation (ordinance for cities, towns, and applicable charter counties; resolution for others) adopting the Utility system or plan, or system or plan of additions and betterments to and extensions of the Utility (in the case of cities and towns), or comprehensive plan, or comprehensive plan amendment, relating to the PROJECT
- Facilities Plan Approval Letter (where applicable) and any amendments thereto
- Plans and Specifications Approval Letter (where applicable) and any amendments thereto

10/2/02

## ATTACHMENT 2

### AGREEMENT DEFINITIONS

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

**“ADMINISTRATIVE REQUIREMENTS”** means the DEPARTMENT's ADMINISTRATIVE REQUIREMENTS FOR ECOLOGY GRANTS AND LOANS (October 2000).

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

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

**“Centennial Clean Water Fund (Centennial)”** means, a portion of fund 139 of the Water Quality Account administered by the DEPARTMENT.

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

**“DEPARTMENT”** means the state of Washington, Department of Ecology, or any successor agency or department.

**“Estimated LOAN Amount”** means the amount of funds loaned to the RECIPIENT.

**“Final LOAN Amount”** means all principal of and interest on the LOAN from the PROJECT Start Date through the PROJECT Completion Date.

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

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



**"GUIDELINES"** means the DEPARTMENT'S WATER QUALITY FINANCIAL ASSISTANCE PROGRAMS FOR FISCAL YEAR 2003—VOLUME ONE: GUIDELINES, VOLUME TWO: APPENDICES , AND VOLUME THREE: LAWS AND RULES (December 2001).

**"Initiation of Operation"** is the actual date the Water Pollution Control Facilities financed with proceeds of the LOAN begin to operate for its intended purpose. This date may occur prior to final inspection and will be determined by the DEPARTMENT after consultation with the RECIPIENT. This date may be the same, or earlier, than the PROJECT Completion Date. For those projects where Initiation of Operation is not applicable, use the PROJECT Completion Date.

**"LOAN"** means the Washington State Water Pollution Control Revolving Fund (SRF) Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this AGREEMENT.

**"LOAN Amount"** means either an Estimated LOAN Amount or a Final LOAN Amount, as applicable.

**"LOAN Fund"** means the special fund of that name created by ordinance or resolution of the RECIPIENT for the repayment of the principal of and interest on the LOAN.

**"Maintenance and Operation Expense"** means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties for the transmission, treatment, or disposal of sewage, but shall not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

**"Net Revenue"** means the Gross Revenue less the Maintenance and Operation Expense.

**"Principal and Interest Account"** means, for a LOAN that constitutes Revenue-Secured Debt, the account of that name created in the Loan Fund to be first used to repay the principal of and interest on the LOAN.

**"PROJECT"** means the PROJECT described in this AGREEMENT.

**"PROJECT Completion Date"** is the date specified in the AGREEMENT as that on which the Scope of Work will be fully completed and the date the PROJECT will end. The PROJECT Completion Date may be changed to an earlier or later date by an amendment to the AGREEMENT.

**"PROJECT Schedule"** is that schedule for the PROJECT specified in the AGREEMENT.

**"Reserve Account"** means, for a LOAN that constitutes Revenue-Secured Debt, the account of that name created in the Loan Fund to secure the payment of the principal of and interest on the LOAN.

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

**“Scope of Work”** means the tasks and activities constituting the PROJECT and contained in ATTACHMENT 5, “SCOPE OF WORK,” hereto.

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

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

**“Termination Date”** means the effective date of the DEPARTMENT’s termination of the AGREEMENT.

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

**“Total Eligible PROJECT Cost”** means the sum of all costs associated with a water quality project that have been determined to be eligible for DEPARTMENT grant or loan funding.

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

**“ULID”** means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility. **“The ULID”** means the utility local improvement district of the RECIPIENT, if any, the improvements to which constitute all or part of the PROJECT.

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

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

**“Water Pollution Control Activities”** means actions to achieve the following purposes:

1. To control nonpoint sources of water pollution;
  2. To develop and implement a comprehensive conservation and management plan for estuaries;
- and



3. To maintain, improve, or protect water quality through the use of Water Pollution Control Facilities, management programs, or other means.

**“Water Pollution Control Facilities”** means any facilities or systems for the control, collection, storage, treatment, disposal, or recycling of wastewater. Wastewater includes, but is not limited to, sanitary sewage, storm water, combined sewer overflows, residential, commercial, industrial, and agricultural wastes which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water Pollution Control Facilities include all equipment, utilities, structures, real property integral to the treatment process, and interests in and improvements on real property necessary for or incidental to such purpose. Water Pollution Control Facilities also include facilities, equipment, and collection systems as are necessary to protect federally designated sole source aquifers.

(12/7/01)

City of Tacoma  
Tacoma Central Treatment Plant Upgrade Project  
Loan No. L0400006

**ATTACHMENT 3**

**AUTHORIZING ORDINANCE OR RESOLUTION**

ATTACHMENT 3

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# ORDINANCE NO. 27136

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AN ORDINANCE authorizing the execution of a Washington State Water Pollution Control Revolving Fund loan agreement with the Department of Ecology, in the amount of \$52 million, for the Central Wastewater Treatment Plant; accepting \$6 million in loan proceeds for fiscal years 2003-2004 and depositing said sum into the Sewer Utility Fund; appropriating \$6 million from the Sewer Utility Fund for the improvements, expansions, and upgrades to the Central Wastewater Treatment Plant; and authorizing execution of a Memorandum of Agreement with the Department of Ecology, delegating certain engineering and design review and approval activities pursuant to RCW 90.48.110(2).

WHEREAS the Wastewater Division ("Division") of the Public Works Department, Environmental Services, has been planning an upgrade and expansion of the Central Wastewater Treatment Plant ("Upgrade Project") since the Department of Ecology ("Ecology") approved the Division's Facilities Plan Amendment in March 2002, and

WHEREAS the Upgrade Project is estimated to cost approximately \$60 million to \$70 million to complete, and

WHEREAS, on July 15, 2003, the City Council authorized the use of a design build alternative contracting method to procure the Upgrade Project, and

WHEREAS the City has applied to Ecology for a low-interest loan from the Washington State Water Pollution Control Revolving Fund ("Revolving Fund") for the cost of the Upgrade Project, and

WHEREAS Ecology has determined to provide a total loan amount of approximately \$52 million from the Revolving Fund to be disbursed in installments, as funds are available, in yearly funding cycles, and

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Section 2. That the proper officers of the City are hereby authorized to accept, as the first installment of the loan, and deposit into the Sewer Utility Fund, the sum of \$6 million.

Section 3. That the proper officers of the City are hereby authorized to appropriate from the Sewer Utility Fund, the amount of \$6 million, to be used for the improvements, expansions, and upgrades to the Central Wastewater Treatment Plant identified in the City's Facilities Plan that was approved in March 2002.

Section 4. That the proper officers of the City are hereby authorized to execute a Memorandum of Agreement with Ecology for the purpose of delegating certain engineering and design review and approval activities under RCW 90.48.110(2), such Memorandum of Agreement to be substantially in the form of the proposed Memorandum of Agreement on file in the office of the City Clerk.

Section 5. Severability. If any one or more of the agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such agreement

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A handwritten mark, possibly initials or a signature, is located in the bottom right corner of the page.

ATTACHMENT 4

OPINION OF RECIPIENT'S LEGAL COUNSEL

I am an attorney at law admitted to practice in the state of Washington and a duly appointed Assistant City Attorney of the city of Tacoma (the "RECIPIENT"); and I have examined any and all documents and records pertinent to the AGREEMENT.

Based on the foregoing, it is my opinion that:

A. The RECIPIENT is a duly organized and legally existing municipal corporation or political subdivision under the laws of the state of Washington or a federally recognized Indian tribe;

B. The RECIPIENT has the power and authority to execute and deliver, and to perform its obligations under, the AGREEMENT;


C. The AGREEMENT has been duly authorized and executed by RECIPIENT's authorized representatives and, to my best knowledge and after reasonable investigation, all other necessary actions have been taken to make the AGREEMENT valid, binding, and enforceable against the RECIPIENT in accordance with its terms, except as such enforcement is affected by bankruptcy, insolvency, moratorium, or other laws affecting creditors' rights and principles of equity if equitable remedies are sought;

D. To my best knowledge and after reasonable investigation, the AGREEMENT does not violate any other agreement, statute, court order, or law to which the RECIPIENT is a party or by which it or its properties is bound; and

E. There is currently no litigation seeking to enjoin the commencement or completion of the PROJECT or to enjoin the RECIPIENT from entering into the AGREEMENT or from accepting or repaying the LOAN. The RECIPIENT is not a party to litigation which will materially affect its ability to repay such loan on the terms contained in the AGREEMENT.

F. The AGREEMENT constitutes a valid obligation of the RECIPIENT payable from the Net Revenues of the Utility.

Capitalized terms used herein shall have the meanings ascribed thereto in the AGREEMENT between the RECIPIENT and the DEPARTMENT.

  
RECIPIENT's Legal Counsel

9-5-03  
Date

## ATTACHMENT 5

### SCOPE OF WORK

#### A. Certifications

The RECIPIENT certifies by signing this AGREEMENT that all negotiated interlocal agreements necessary for the PROJECT are, or will be, consistent with the terms of this AGREEMENT and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the PROJECT to the DEPARTMENT.

The RECIPIENT certifies by signing this AGREEMENT that the requirements of Chapter 39.80 RCW, "Contracts for Architectural and Engineering Services," have been met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final negotiated agreement and submit a copy of the agreement to the DEPARTMENT.

#### B. Reports; Documents

1. Progress, Quarterly, and Other Reports; Invoices. The RECIPIENT shall submit progress reports to the DEPARTMENT (i) with each payment request or such other schedule as set forth herein and (ii) quarterly. Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Quarterly reports shall be due within twenty (20) days following the end of the quarter being reported. Payments will be withheld if required progress reports are not submitted.

The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect its ability to meet PROJECT objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation.

The RECIPIENT shall submit all progress/quarterly reports, and all payment requests, to the Financial Manager of the DEPARTMENT.

2. Other Documents; Correspondence. The RECIPIENT shall submit two (2) copies of any documents which require DEPARTMENT approval. Once approval is given, one (1) copy will be returned to the RECIPIENT. If the RECIPIENT needs more than one (1) approved copy, the number of submittals should be adjusted accordingly.

Document submittals and all other correspondence should be addressed to the Project Manager.

#### C. Facilities Plan

The RECIPIENT shall develop a facilities plan amendment to evaluate reclamation alternatives. An

approvable facilities plan amendment shall meet the requirements of Chapter 173-240 WAC, "Submission of Plans and Reports for Construction of Wastewater Facilities", the facility planning requirements of "Title 40 Code of Federal Regulations" and RCW 90.46 Reclaimed Water Use.

#### **D. Plans and Specifications**

1. Plans and Specifications. The RECIPIENT shall develop plans and specifications that must be consistent with:

- a. Requirements stated in Chapter 173-240 WAC, "Submission of Plans and Reports for Construction of Wastewater Facilities," as related to plans and specifications;
- b. Good engineering practices and generally recognized engineering standards, including, but not limited to, the STATE OF WASHINGTON'S CRITERIA FOR SEWAGE WORKS DESIGN (December 1998 or more recent edition);
- c. The approved facilities plan; and
- d. Other reports approved by the DEPARTMENT which pertain to the facilities design.

2. Form of Plans. As-built construction plans submitted to the DEPARTMENT shall be reduced to no larger than 11-1/2" x 17" legible size. They may, at the RECIPIENT's option, be bound with the specifications or related construction contract documents, or bound as a separate document. All reduced drawings must be completely legible.

3. Plan of Operation. Prior to construction, a plan of operation shall be prepared consistent with the WAC 173-240-070(1) and the DEPARTMENT's GUIDELINES and submitted to the DEPARTMENT. The RECIPIENT shall provide written acceptance of the plan by the operator in responsible charge of the facility.

#### **E. Construction Management**

1. Plan of Operation. The plan of operation must be updated as appropriate at the 50 percent and 90 percent stage of construction, or more often if necessary.

2. Construction Quality Assurance Plan. A detailed construction quality assurance plan shall be prepared at least thirty (30) days prior to the commencement of construction. This plan must describe the activities which will be undertaken to achieve adequate and competent performance of all construction work.

3. "As-Built" Drawings. Upon completion of construction, the RECIPIENT shall provide the DEPARTMENT with a set of "as-built" construction drawings which reflect major changes, modifications or other significant revisions made to the PROJECT during construction, in addition to the Declaration of Construction, signed by a professional engineer, indicating the PROJECT was completed in accordance with the plans and specifications and major change orders approved by the DEPARTMENT and shown on the "as-built" plans.

4. Operations and Maintenance Manual. An Operations and Maintenance Manual (“O&M Manual”) shall be prepared in conformance with WAC 173-240-080, “Operation and Maintenance Manual,” and the DEPARTMENT’s GUIDELINES. The O&M Manual shall be submitted to the DEPARTMENT. The RECIPIENT shall provide written acceptance of the plan by the operator in responsible charge of the facility. The O&M Manual shall be updated as necessary following plant start-up to reflect actual operating experience.

(10/3/02)



ATTACHMENT 6

SPECIAL TERMS AND CONDITIONS

A. Alternative Contracting Extended Loan Payment. Applicants will be evaluated the year they apply for funding. Applicants offered funding will not be evaluated during subsequent funding cycles. The project will be put at the top of the funding offer list each year until the project is fully funded.

Each year the RECIPIENT needs to submit a Water Quality Financial Assistance Application Part 1 and include a detailed budget, if costs have changed, for the entire project. The RECIPIENT must also include a detailed budget by task or element and the amount of funding needed to complete work from October 1 through September 30.

B. Minority and Women's Business Participation. The RECIPIENT 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.

In the absence of more stringent goals established by the RECIPIENT's jurisdiction, the RECIPIENT agrees to utilize the DEPARTMENT'S goals for minority- and women-owned business participation in all bid packages, request for proposals, and purchase orders. These goals are expressed as a percentage of the total dollars available for the purchase or contract and are as follows:

Construction/Public Works	10% MBE	6% WBE
Architecture/Engineering	10% MBE	6% WBE
Purchased Goods	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE
Professional Services	10% MBE	4% WBE

Meeting these goals is voluntary and no contract award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and the RECIPIENT and ALL prospective bidders or persons 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 businesses 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.

By signing this Agreement, the RECIPIENT certifies that the above steps were, or will be followed. Any contractor engaged by the RECIPIENT under this agreement shall be required to follow the above five affirmative steps in the award of any subcontract(s).

The RECIPIENT shall report to the DEPARTMENT at the time of submitting each invoice, on forms provided by the DEPARTMENT, payments made to qualified firms. The report will address:

1. Name and state OMWBE certification number of any qualified firm receiving funds under the voucher, including any sub-and/or sub-subcontractors.
2. The total dollar amount paid to qualified firms under this invoice.

C. Prevailing Wage. The RECIPIENT shall require all contractors and subcontractors on the PROJECT to pay wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, in compliance with state prevailing wage rate requirements, Chapter 39.12 RCW Prevailing Wages on Public Works. To obtain the state prevailing wage rates, contact the Washington State Department of Labor and Industries.

D. Signage. All site-specific projects must have a sign of sufficient size to be seen from nearby roadways, acknowledging state financial assistance, and left in place throughout the life of the project. The DEPARTMENT logo must be on all signs and documents and will be provided as needed.

E. Sewer-Use Ordinance or Resolution. If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution to require that all new sewers and connections are designed and constructed in accordance with applicable state and local standards. Such ordinance or resolution shall be submitted to the DEPARTMENT before construction of the PROJECT is 80 percent complete.

F. Accounting Standards. The RECIPIENT shall maintain accurate records and accounts for the PROJECT ("PROJECT Records") in accordance with generally accepted government accounting standards including those contained in the STANDARDS FOR AUDIT OF GOVERNMENTAL ORGANIZATIONS, PROGRAMS, ACTIVITIES, AND FUNCTIONS promulgated by the U.S. General Accounting Office.

These PROJECT Records shall be separate and distinct from the RECIPIENT's other records and accounts (General Accounts). Eligible costs shall be audited annually by an independent, certified accountant and/or state auditor, which may be part of the annual audit of the General

Accounts of the RECIPIENT. If the annual audit includes an auditing of this PROJECT, a copy of such audit, including all written comments, recommendations and findings, shall be furnished to the DEPARTMENT within thirty (30) days after receipt of the final audit report.

G. Procurement. The RECIPIENT is responsible for procuring professional, personal, and other services using sound business judgment and good administrative procedures. This includes issuance of invitation of bids, requests for proposals, selection of contractors, award of subagreements and other related procurement matters. The RECIPIENT shall follow State procurement laws.

H. Public Awareness. All public awareness notices, or announcements related to the PROJECT financed in whole or in part by LOAN funds should inform the public of the involvement of the DEPARTMENT.

I. Small Business in Rural Areas ("SBRAs"). If a contract is awarded by the RECIPIENT under this AGREEMENT, the RECIPIENT is also required to utilize the following affirmative steps:

1. Place SBRAs on solicitation lists;
2. Make sure the SBRAs are solicited whenever there are potential sources;
3. Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by SBRAs;
4. Establish delivery schedules, where requirements of work will permit, which could encourage participation by SBRAs;
5. Use the services of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce, as appropriate; and
6. Require the contractor to comply with the affirmative steps outlined above.

The negotiated "Fair Share Percentage" for the SBRAs is one-half of one percent (0.5%). There is no formal reporting requirement for SBRAs at this time; however, it is highly recommended that the RECIPIENT keep records of SBRA participation.

J. Growth Management Planning. The RECIPIENT certifies by signing this AGREEMENT for a Water Pollution Control Facilities project that it has adopted a comprehensive plan that conforms with the requirements of Chapter 36.70A RCW, "Growth Management—Planning by Selected Counties and Cities," and the RECIPIENT has adopted development regulations in conformance with the requirements of Chapter 36.70A RCW. If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify the DEPARTMENT in writing of this change within thirty (30) days.

(4/19/02)

**ATTACHMENT 7**

**LOAN GENERAL TERMS AND CONDITIONS**

**A. RECIPIENT PERFORMANCE**

All activities for which loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees.

**B. SUBGRANTEE/CONTRACTOR COMPLIANCE**

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this agreement.

**C. THIRD PARTY BENEFICIARY**

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this agreement, the state of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

**D. CONTRACTING FOR SERVICES (BIDDING)**

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

**E. ASSIGNMENTS**

No right or claim of the RECIPIENT arising under this agreement shall be transferred or assigned by the RECIPIENT.

**F. COMPLIANCE WITH ALL LAWS**

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits.

Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. The RECIPIENT shall report to the DEPARTMENT the percent of loan funds available to women or minority owned businesses.

3. Wages and Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.

4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

### G. KICKBACKS

The RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled or, receive any fee, commission or gift in return for award of a subcontract hereunder.

### H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object. All loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.

3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following loan termination or dispute resolution hereunder.

4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations) or OMB Circular A-110 (Uniform Administrative Requirements for Grants & Agreements with Institutions of Higher Education, Hospitals and Other

Non-Profit Organizations) if the RECIPIENT receives federal funds in excess of \$300,000. The RECIPIENT must forward a copy of the state auditor's audit along with the RECIPIENT response and the final corrective action plan as approved by the SAO to the DEPARTMENT within ninety (90) days of the date of the audit report.

## **I. PERFORMANCE REPORTING**

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Scope of Work. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted.

## **J. COMPENSATION**

1. Method of Compensation. Payment shall normally be made on a reimbursable as specified in the loan agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and certified as satisfactory by the Financial Manager.

The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work. Instructions for submitting the payment requests are found in "Administrative Requirements for Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee.

Payment requests shall be submitted to the DEPARTMENT and directed to the Financial Manager assigned to administer this agreement.

2. Budget Deviation. Deviations in budget amounts are not allowed without written amendment(s) to this agreement. Payment requests will be disallowed when the RECIPIENT's request for reimbursement exceeds the State maximum share amount for that element, as described in the Scope of Work.

3. Period of Compensation. Payments shall only be made for action of the RECIPIENT pursuant to the loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.



4. Final Request(s) for Payment. The RECIPIENT must submit final requests for compensation within forty-five(45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.
5. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance and a financial bond. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.6., herein.
6. Unauthorized Expenditures. All payments to the RECIPIENT shall be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this loan shall be refunded to the DEPARTMENT by the RECIPIENT.
7. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.

#### K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds thereunder and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Despite the above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the State of Washington because of any breach of agreement by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be

good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; Provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date mutually agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

#### L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

#### M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes.

Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that developed by the RECIPIENT as provided in 35 U.S.C. 200-212.

2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.

3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.



4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.

5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:

a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.

b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.

6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

#### N. RECYCLED/RECYCLABLE PAPER

All documents and materials published under this agreement shall be produced on recycled paper containing the highest level of post consumer and recycled content that is available. At a minimum, paper with 10 percent post consumer content and 50 percent recycled content shall be used. Whenever possible, all materials shall be published on paper that is unbleached or has not been treated with chlorine gas and/or hypochlorite.

As appropriate, all materials shall be published on both sides of the paper and shall minimize the use of glossy or colored paper and other items which reduce the recyclability of the document.

#### O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required

of it by this agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per annum from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

#### **P. PROJECT APPROVAL**

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Manager or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Manager or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

#### **Q. DISPUTES**

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Manager or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Manager or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal.

In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

#### **R. CONFLICT OF INTEREST**

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest,

direct or indirect, in this agreement or the proceeds thereof.

#### **S. INDEMNIFICATION**

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

#### **T. GOVERNING LAW**

This agreement shall be governed by the laws of the State of Washington.

#### **U. SEVERABILITY**

If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, and to this end the provisions of this agreement are declared to be severable.

#### **V. PRECEDENCE**

In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Ecology Grants and Loans"; and (e) the General Terms and Conditions.

(6/17/02)

# ESTIMATED LOAN REPAYMENT SCHEDULE



## ATTACHMENT 8

<b>Number</b>	L0400006	<b>Loan Amount</b>	\$ 6,000,000.00
<b>Recipient Name</b>	Tacoma City	<b>Term of Loan</b>	39 Payments
<b>Amortization Method</b>	Compound-365 D/Y	<b>Annual Int. Rate</b>	1.500 %
<b>Project Completion Date</b>	05/01/2008	<b>Interest Compounded</b>	Monthly
<b>Initiation of Operations</b>	08/01/2007	<b>Loan Date</b>	08/01/2007

<b>Loan Number</b>	L0400006	<b>Department of Ecology</b>	
<b>Recipient Name</b>	Tacoma City	<b>Date Created</b>	08/21/2003

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
1	08/01/2008	\$179,436.21	\$90,746.41	\$88,689.80	\$5,911,310.20
<b>SubTotal</b>	<b>2008</b>	<b>\$179,436.21</b>	<b>\$90,746.41</b>	<b>\$88,689.80</b>	
2	02/01/2009	\$179,436.21	\$44,473.60	\$134,962.61	\$5,776,347.59
3	08/01/2009	\$179,436.21	\$43,458.22	\$135,977.99	\$5,640,369.60
<b>SubTotal</b>	<b>2009</b>	<b>\$358,872.42</b>	<b>\$87,931.82</b>	<b>\$270,940.60</b>	
4	02/01/2010	\$179,436.21	\$42,435.19	\$137,001.02	\$5,503,368.58
	08/01/2010	\$179,436.21	\$41,404.46	\$138,031.75	\$5,365,336.83
<b>SubTotal</b>	<b>2010</b>	<b>\$358,872.42</b>	<b>\$83,839.65</b>	<b>\$275,032.77</b>	
6	02/01/2011	\$179,436.21	\$40,365.99	\$139,070.22	\$5,226,266.61
7	08/01/2011	\$179,436.21	\$39,319.69	\$140,116.52	\$5,086,150.09
<b>SubTotal</b>	<b>2011</b>	<b>\$358,872.42</b>	<b>\$79,685.68</b>	<b>\$279,186.74</b>	
8	02/01/2012	\$179,436.21	\$38,265.53	\$141,170.68	\$4,944,979.41
9	08/01/2012	\$179,436.21	\$37,203.44	\$142,232.77	\$4,802,746.64
<b>SubTotal</b>	<b>2012</b>	<b>\$358,872.42</b>	<b>\$75,468.97</b>	<b>\$283,403.45</b>	
10	02/01/2013	\$179,436.21	\$36,133.35	\$143,302.86	\$4,659,443.78
11	08/01/2013	\$179,436.21	\$35,055.22	\$144,380.99	\$4,515,062.79
<b>SubTotal</b>	<b>2013</b>	<b>\$358,872.42</b>	<b>\$71,188.57</b>	<b>\$287,683.85</b>	
12	02/01/2014	\$179,436.21	\$33,968.97	\$145,467.24	\$4,369,595.55
13	08/01/2014	\$179,436.21	\$32,874.55	\$146,561.66	\$4,223,033.89
<b>SubTotal</b>	<b>2014</b>	<b>\$358,872.42</b>	<b>\$66,843.52</b>	<b>\$292,028.90</b>	
	02/01/2015	\$179,436.21	\$31,771.90	\$147,664.31	\$4,075,369.58
15	08/01/2015	\$179,436.21	\$30,660.95	\$148,775.26	\$3,926,594.32

Loan Number L0400006  
 Recipient Name Tacoma City

Department of Ecology  
 Date Created 08/21/2003

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
<b>SubTotal</b>	<b>2015</b>	<b>\$358,872.42</b>	<b>\$62,432.85</b>	<b>\$296,439.57</b>	
16	02/01/2016	\$179,436.21	\$29,541.64	\$149,894.57	\$3,776,699.75
17	08/01/2016	\$179,436.21	\$28,413.91	\$151,022.30	\$3,625,677.45
<b>SubTotal</b>	<b>2016</b>	<b>\$358,872.42</b>	<b>\$57,955.55</b>	<b>\$300,916.87</b>	
18	02/01/2017	\$179,436.21	\$27,277.70	\$152,158.51	\$3,473,518.94
19	08/01/2017	\$179,436.21	\$26,132.94	\$153,303.27	\$3,320,215.67
<b>SubTotal</b>	<b>2017</b>	<b>\$358,872.42</b>	<b>\$53,410.64</b>	<b>\$305,461.78</b>	
20	02/01/2018	\$179,436.21	\$24,979.56	\$154,456.65	\$3,165,759.02
21	08/01/2018	\$179,436.21	\$23,817.51	\$155,618.70	\$3,010,140.32
<b>SubTotal</b>	<b>2018</b>	<b>\$358,872.42</b>	<b>\$48,797.07</b>	<b>\$310,075.35</b>	
22	02/01/2019	\$179,436.21	\$22,646.72	\$156,789.49	\$2,853,350.83
23	08/01/2019	\$179,436.21	\$21,467.12	\$157,969.09	\$2,695,381.74
<b>SubTotal</b>	<b>2019</b>	<b>\$358,872.42</b>	<b>\$44,113.84</b>	<b>\$314,758.58</b>	
24	02/01/2020	\$179,436.21	\$20,278.64	\$159,157.57	\$2,536,224.17
	08/01/2020	\$179,436.21	\$19,081.22	\$160,354.99	\$2,375,869.18
<b>SubTotal</b>	<b>2020</b>	<b>\$358,872.42</b>	<b>\$39,359.86</b>	<b>\$319,512.56</b>	
26	02/01/2021	\$179,436.21	\$17,874.80	\$161,561.41	\$2,214,307.77
27	08/01/2021	\$179,436.21	\$16,659.29	\$162,776.92	\$2,051,530.85
<b>SubTotal</b>	<b>2021</b>	<b>\$358,872.42</b>	<b>\$34,534.09</b>	<b>\$324,338.33</b>	
28	02/01/2022	\$179,436.21	\$15,434.64	\$164,001.57	\$1,887,529.28
29	08/01/2022	\$179,436.21	\$14,200.78	\$165,235.43	\$1,722,293.85
<b>SubTotal</b>	<b>2022</b>	<b>\$358,872.42</b>	<b>\$29,635.42</b>	<b>\$329,237.00</b>	
30	02/01/2023	\$179,436.21	\$12,957.64	\$166,478.57	\$1,555,815.28
31	08/01/2023	\$179,436.21	\$11,705.14	\$167,731.07	\$1,388,084.21
<b>SubTotal</b>	<b>2023</b>	<b>\$358,872.42</b>	<b>\$24,662.78</b>	<b>\$334,209.64</b>	
32	02/01/2024	\$179,436.21	\$10,443.22	\$168,992.99	\$1,219,091.22
33	08/01/2024	\$179,436.21	\$9,171.80	\$170,264.41	\$1,048,826.81
<b>SubTotal</b>	<b>2024</b>	<b>\$358,872.42</b>	<b>\$19,615.02</b>	<b>\$339,257.40</b>	
34	02/01/2025	\$179,436.21	\$7,890.82	\$171,545.39	\$877,281.42
35	08/01/2025	\$179,436.21	\$6,600.21	\$172,836.00	\$704,445.42

Loan Number

L0400006

Department of Ecology

Recipient Name

Tacoma City

Date Created 08/21/2003

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
<b>SubTotal</b>	<b>2025</b>	<b>\$358,872.42</b>	<b>\$14,491.03</b>	<b>\$344,381.39</b>	
36	02/01/2026	\$179,436.21	\$5,299.88	\$174,136.33	\$530,309.09
37	08/01/2026	\$179,436.21	\$3,989.77	\$175,446.44	\$354,862.65
<b>SubTotal</b>	<b>2026</b>	<b>\$358,872.42</b>	<b>\$9,289.65</b>	<b>\$349,582.77</b>	
38	02/01/2027	\$179,436.21	\$2,669.80	\$176,766.41	\$178,096.24
39	08/01/2027	\$179,436.14	\$1,339.90	\$178,096.24	\$0.00
<b>SubTotal</b>	<b>2027</b>	<b>\$358,872.35</b>	<b>\$4,009.70</b>	<b>\$354,862.65</b>	
<b>Grand Total</b>		<b>\$6,998,012.12</b>	<b>\$998,012.12</b>	<b>\$6,000,000.00</b>	

## ATTACHMENT 9

### PROVISIONS OF THE PILOT RULE AMENDING WAC 173-98-060

Special Alternative Contracting/Service Agreement (e.g., Design/Build) Pilot Provisions for Facilities. Notwithstanding the foregoing requirements related to the "step process," a facilities project will not be required to proceed according to the "step process" in order to be eligible for a State Revolving Fund (SRF) loan when the applicant utilizes an Alternative Contracting/Service Agreement procedure authorized by and complying with Chapter 39.10 RCW, *Alternative Public Works Contracting Procedures*, and/or Chapter 70.150 RCW, *Water Quality Joint Development Act*, and the project otherwise complies with this chapter. For such projects, this pilot rule, as described herein, conveys to the applicant/recipient of and for SRF financial assistance the responsibility for sequential review and approval of plans and specifications under Chapter 173-240 WAC.

For all facilities projects utilizing an Alternative Contracting/Service Agreement procedure, a general sewer plan or facilities plan must be approved by the department prior to the time of application for financial assistance. A facilities plan or amendment to a facilities plan, which includes primary design elements in accordance with provisions of the funding guidelines, must also be approved by the department.

In addition, before the public body enters into any contract for an Alternative Contracting/Service Agreement procedure s under Chapter 39.10 RCW and/or service agreement(s) under Chapter 70.150 RCW, the contract(s) and/or service agreement(s) shall be reviewed and approved by the department to ensure that the purposes of Chapter 90.48 RCW are implemented. The public body conducting the Alternative Contracting/Service Agreement project must also request and be granted delegation authority in conformance with the provisions of Chapter 90.48 RCW, *Water Pollution Control* in order to be eligible for an SRF loan. At a minimum, applicants with Alternative Contracting/Service Agreement project proposals will need to:

- (i) apply in accordance with the funding guidelines in order to be considered for funding and for their projects to be included on the intended use plan,
- (ii) provide the department a legal opinion from an attorney of the public body indicating that the public body has sufficient legal authority to utilize the Alternative Contracting (e.g. design build services) under Chapter 39.10 RCW and/or service agreements under Chapter 70.150 RCW process being contemplated and to incur the debt for which it is applying,
- (iii) demonstrate to the department that the applicant has sufficient technical expertise and/or experience to utilize the Alternative Contracting/Service Agreement process;
- (iv) negotiate and sign an SRF loan agreement. Among the provisions of this agreement will be that the failure of the recipient to make timely progress though the Alternative Contracting/Service Agreement process may result in amendments to the agreement to provide conventional SRF financial assistance or termination of the loan (including possible provisions to immediately repay the loan);
- (v) prepare and receive department approval of the documents outlined in WAC 173-98-060 (3) in accordance with the provisions of the funding guidelines,



City of Tacoma

Tacoma Central Treatment Plant Upgrade Project

Loan No. L0400006

- (vi) comply with special reporting and performance monitoring (cost effectiveness, efficiencies, time savings, etc.) outlined in the funding guidelines and included in the SRF loan agreement,
- (vii) provide adequate assurance that the contractor and/or service provider will complete the project in accordance with all contracts and/or agreements,
- (viii) provide adequate assurance that facilities will be designed, constructed and operated according to discharge permits and other applicable regulations and/or enforcement orders,
- (ix) comply with established financial assistance ceiling loan amounts that apply unless the demand for funds is limited. However, applicants should apply for the entire financial assistance needed.



City of Tacoma  
Tacoma Central Treatment Plant Upgrade Project  
Loan No. L0400006

**ATTACHMENT 10**

**MEMORANDUM OF AGREEMENT**

ATTACHMENT 10

ORIGINAL

**MEMORANDUM OF AGREEMENT**  
between the  
**WASHINGTON STATE DEPARTMENT OF ECOLOGY**  
and the  
**CITY OF TACOMA**  
**DEPARTMENT OF PUBLIC WORKS**

In accordance with RCW 90.48.110(2), the purpose of this MOA is to formally delegate the review and approval of, plans, and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements or extensions to existing sewerage system or sewage treatment or disposal plants, and the proposed method of future operations and maintenance of said facility or facilities and industrial pretreatment systems from the Washington State Department of Ecology (Ecology) to the City of Tacoma Department of Public Works (Tacoma). This MOA also confirms the delegation of review and approval of certain engineering activities for industrial pretreatment. Tacoma has previously been delegated the authority and responsibility to administer the federal industrial pretreatment program under 40 CFR Part 403.

This MOA, and the described engineering review and approval activities, are based on a foundation of trust, collaboration, and professionalism among public service organizations. The MOA further relies upon the guidance provided in RCW 90.48: "To promote efficiency in service delivery and intergovernmental cooperation, in protecting the quality of the state's waters...".

Nothing in this MOA shall relieve Tacoma of its obligations under financial assistance agreements with Ecology, Tacoma's NPDES permits, other agreements Tacoma has with Ecology, or applicable state, federal, and/or local laws.

**DELEGATED ACTIVITIES**

As allowed under RCW 90.48.110(2), Tacoma will carry out the responsibility for the duties and functions for the following activities on behalf of Ecology:

**Pretreatment Programs**

Tacoma has previously been delegated the authority and responsibility to administer the federal pretreatment program (40 CFR Part 403) authorized under the Clean Water Act, and the State Waste Discharge Permit program, Chapter 173-216 WAC. Full authority authorized under RCW 90.48 is hereby granted to Tacoma to perform the activities Ecology would otherwise undertake to review, and approve all plans for industrial wastewater facilities described in WAC 173-240 sections -110 through -180 for industrial wastewater treatment systems subject to Tacoma's Pretreatment Program's jurisdiction. This includes engineering reports under WAC 173-240-130, plans and specifications under

ORIGINAL

WAC 173-240-140, and operation and maintenance manuals under WAC 173-240-150.

Ecology will provide technical assistance when requested by Tacoma, to evaluate wastewater treatment processes.

Tacoma shall keep one copy of each approved document on file, and include a compiled list of approved documents in the annual pretreatment report for the reporting period.

See STANDARDS Section of this MOA for standards to be used for Delegated Pretreatment Programs.

### **Review and Approval of Design of Wastewater System Improvements**

Tacoma is hereby delegated responsibility for the review and approval that Ecology would otherwise undertake under Chapter 173-240 WAC of plans and specifications, construction quality assurance plans, and operation and maintenance manuals, as well as addenda, for all collection, transmission and treatment facility projects as set forth in Chapter 173-240 WAC. Tacoma will maintain a listing of projects approved, which includes information regarding the type of project or process approved, date, design engineer (licensed professional engineer), and the Tacoma representative responsible for the review process.

See STANDARDS Section of this MOA for the standards for Wastewater Treatment Facility Improvements that govern the review and approval activities authorized under this section.

### **Review and Approval of Other Plans and Construction Documents**

Tacoma is hereby delegated authority to approve the quality assurance plans that Ecology would otherwise review and approve under WAC 173-240-075, to approve interim and final plans of operation and operation and maintenance manuals that Ecology would otherwise review and approve under WAC 173-240-070 to -080 and 173-240-140 to -150, and to approve deviations from the approved plans that Ecology would otherwise review and approve under WAC 173-240-180.

See STANDARDS Section of this MOA for standards to be used for the review and approval activities authorized under this section.

### **Eligibility Determination**

For Ecology-funded projects supported by the Centennial Clean Water Fund or State Revolving Fund, Tacoma is responsible for determining final funding eligibility for all project components that Ecology would otherwise undertake, and will submit such eligibility determination to Ecology for review before seeking

reimbursement of costs. Tacoma will include in these eligibility determinations related administrative costs, design engineering, construction management and construction costs including change orders. Ecology shall retain authority for revising eligibility determinations to insure compliance with State/Federal law and Ecology policies and guidelines.

### **REQUIRED SUBMITTALS**

Tacoma will maintain updated as-built drawings and will issue or cause to be issued the "Declaration of Construction" (Chapter 173-240-090 WAC) for all projects. For Wastewater Treatment Plant facility projects, Tacoma will send a copy (and, when requested, an electronic version) of the O&M Manual, Declaration of Construction, and record drawings (as-builts) to the Ecology Southwest Regional Office. Record drawings shall be no larger than 11" x 17".

By March 31 of each year, Tacoma will prepare a summary report covering all review activities conducted under this agreement for the previous calendar year. The summary report shall contain a brief project description and disposition of Tacoma's review.

### **QUALIFICATIONS**

All approvals made by Tacoma under this MOA, except those under the delegated pretreatment program, shall be made by a Washington state licensed professional engineer with experience in the discipline required for that activity per WAC 173-240-160. The signed seal of a professional engineer is required on all changes to engineering documents such as facility plan amendments, and plans and specifications (addenda and change orders) referencing engineering requirements.

### **STANDARDS**

Engineering documents reviewed under this MOA must demonstrate that the collection, treatment and disposal facilities are in conformance with an Ecology-approved engineering report and/or facility plan and will be designed, constructed, operated, and maintained to meet the effluent limits and conditions of an NPDES or State waste discharge permit, will be consistent with good engineering practice, and will adequately protect the quality of state waters in accordance with RCW 90.48.

Plans and specifications shall meet the requirements set forth in WAC 173-240-070 or -140, as applicable, and shall conform to the content and format of Ecology's Criteria for Sewage Works Design, as updated or amended. Quality assurance plans shall meet the requirements set forth in WAC 173-240-075. Operation and maintenance manuals shall meet the requirements set forth in WAC 173-240-080 or -150, as applicable.

Ecology's Criteria for Sewage Works Design, as updated or amended, and WAC 173-240-030 and -110, "Submission of Plans and Reports" shall be used as minimum standards for the review and approval of engineering documents. Additional engineering references may be used from the: Water Environment Federation, American Public Works Association, American Society of Civil Engineers, and other recognized design and specification authorities as long as they meet or exceed Ecology minimum standards. Ecology also recognizes that Tacoma may have standards that exceed Ecology minimum standards.

Where applicable, pretreatment engineering reports, plans and specifications, and operation and maintenance manuals will also be reviewed for compliance with state and federal pretreatment regulations. To be approved, these pretreatment documents must also show that the discharge will meet the effluent limits and conditions of a pretreatment permit issued by Tacoma under its delegated program.

Tacoma will have in place or establish an internal quality control review and evaluation process to assure standards and criteria are met as required in this agreement. Any approvals made which deviate from applicable standards or accepted design criteria shall be reported to Ecology.

#### **MAINTENANCE OF RECORDS**

Tacoma shall maintain all books, records, documents, data and other evidence relating to this MOA and performance of the activities described herein. Tacoma shall retain such records for a period of six years following the termination of this MOA. At no additional cost, these records, including materials generated under this MOA, shall be subject at all reasonable times to inspection, review or audit by the Ecology, personnel duly authorized by the Ecology, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

#### **COMPLIANCE WITH LAWS, REGULATIONS AND AGREEMENTS**

Tacoma will comply with all funding agreements, applicable state, federal and local laws, orders, regulations and permits. Prior to commencement of any construction or project implementation, Tacoma is responsible for making sure that the necessary permits and approvals required by authorities having jurisdiction over the project, have been obtained.

#### **DISPUTE RESOLUTION**

The parties' mutual goal is to use the public's resources in an efficient manner to protect the water quality of the state. To that end, all parties will make a good

faith effort to resolve issues and to avoid, to the greatest extent possible, appeals to higher levels of management. If, in the execution of this MOA, differences of opinion cannot be resolved to the satisfaction of staff, the specific issues will be referred to the Ecology Southwest Regional Office Water Quality Manager and the Tacoma Public Works Assistant Director in Environmental Services. If necessary disputes will be elevated to the Water Quality Program Manager for Ecology and the Public Works Director for Tacoma for final resolution.

This MOA does not create any rights, procedural or substantive, in third parties.

### **PROCESS SUPPORT**

Ecology's Southwest Regional Office will provide an engineering staff contact to provide assistance and information as needed. All data submittals and mutually agreed progress meetings will be coordinated with and through the Ecology staff contact person.

The designated Ecology staff contact person for this MOA is:

Glenn Pieritz  
(360) 407-6275  
gpie461@ecy.wa.gov

The designated Tacoma staff contact person for this MOA is:

Eric Johnson, P.E.  
(253) 502-2106  
ejohnson@cityoftacoma.org

Staff contacts may be changed by letter from the signatories to this agreement.

### **AMENDMENT, TERMINATION, AND REVOCATION**

This agreement shall be effective when signed by both parties. The agreement may be amended at any time by mutual written consent of all involved parties. Tacoma will notify Ecology should any problems, delays, or adverse conditions prevent them from meeting the objectives of the MOA.

The agreement may be terminated by either party with 90 days written notice. Such notice shall include the reason for termination.

The transfer of authority from Ecology to Tacoma is contingent upon satisfactory performance by Tacoma of all obligations under this agreement. The transfer of authority will be revoked upon termination of this agreement.



**NON-DELEGATED ACTIVITIES**

Ecology retains approval authority for all general sewer plans, engineering reports, facility plans and amendments thereto.


Ecology and the State Department of Health retain joint approval authority for all phases of wastewater projects involving water reclamation and reuse.

**TERM OF MOA**

The term of this MOA shall be in effect from the date of Ecology's signature and shall run for a term of five years ending no later than August 31, 2008. At any time the parties may, by mutual agreement, agree to extend the term of this MOA for an additional five year term or less.

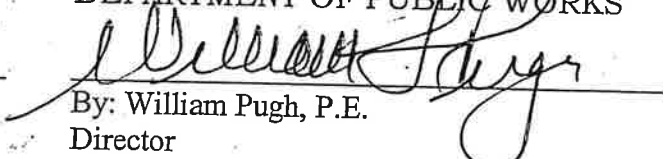
IN WITNESS THEREOF, the parties hereby execute this Memorandum of Agreement:

WASHINGTON STATE DEPARTMENT  
OF ECOLOGY


  
By: Kelly Susewind, P.E.  
Southwest Region Manager  
Water Quality Program

Date 9/19/03

CITY OF TACOMA  
DEPARTMENT OF PUBLIC WORKS

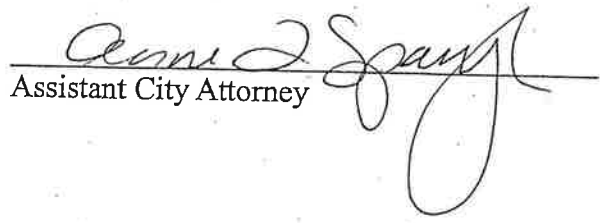
  
By: William Pugh, P.E.  
Director  
Department of Public Works

Date 9/11/03

  
By:  
Debbie Dahlstrom, Interim Risk Manager

Date 9-11-03

Approved as to form:

  
Assistant City Attorney





STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000  
TTY 711 or 800-833-6388 (for the speech or hearing impaired)

January 31, 2007

Mr. Eric Johnson P. E.  
Department of Public Works  
City of Tacoma  
2201 Portland Avenue  
Tacoma, WA 98421

**Re: Washington State Water Pollution Control Revolving Fund  
Tacoma Central Treatment Plant Upgrade  
Loan Amendment No. 3 for Signature**

Dear Mr. Johnson:

Enclosed are three original Washington State Water Pollution Control Revolving Fund loan agreement amendments between the Department of Ecology and the city of Tacoma.

The three enclosed original loan agreement amendment's increases the loan amount identified in the budget by \$21,237,895, from \$52,000,000 to \$73,237,895 for the design and construction of the Tacoma Central Treatment Plant upgrade. The term of the loan for this increase is twenty years with a 2.6 percent interest rate.

The interest rate associated with the FY 2003 loan and the FY 2007 loan are different and requires that the loan be split into two phases.

- Phase A will cover all disbursements up to \$52,000,000 and will be known as L040006A.
- Phase B will cover all disbursements up to \$21,237,895 and will be known as L040006B.

If you find this agreement amendment to be satisfactory, please have the City Manager, Public Works Director, Risk Manager, City Attorney, and the City Clerk sign and date all three original loan agreement amendments and return them to me.

When the signature process is completed by Ecology, I will send you a signed original loan agreement amendment for your records.

If you should have any questions, please telephone me at (360) 407-6510.

Sincerely,

Brian Howard  
State Revolving Fund Coordinator  
Water Quality Program

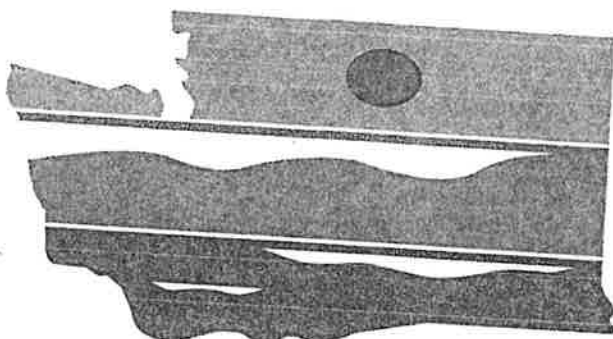
City of Tacoma PW-SE

FR FEB 2 '07

Enclosures

cc: David Dougherty, Ecology/WQSWRO





WASHINGTON STATE  
DEPARTMENT OF  
ECOLOGY

**AMENDMENT NO. 3  
TO LOAN AGREEMENT NO. L0400006  
BETWEEN  
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY  
AND  
THE CITY OF TACOMA**

**PURPOSE:** To amend the above-referenced loan agreement (the "AGREEMENT") between the State of Washington Department of Ecology (the "DEPARTMENT") and the city of Tacoma (the "RECIPIENT") for the Central Treatment Plant Upgrade Project (the "PROJECT"). This amendment is needed to increase the budget based on the RECIPIENT's Fiscal Year (FY) 2007 funding application dated October 31, 2005. The funds will be used to supplement the \$52 million loaned to the RECIPIENT under the SRF pilot rule for Alternative Contracting/Service Agreement that was identified on the FY 2003 final lists.

Based on legislative direction of timely use of funds and by Chapter 173.98 WAC, Uses and Limitations of the Water Pollution Control Revolving Fund, this project must be completed within five years of the publication date of the Final Intended Use Plan. The Final Intended Use Plan was published on September 20, 2002. After the five-year time limit is reached, no further expenditures may be reimbursed unless an extension is made. No more than one time extension of no more than twelve months may be made when there are valid reasons for the extension. Valid reasons for a time extension are limited to: (A) Schedules included in water quality permits, consent decrees, or enforcement orders; or (B) The RECIPIENT and the DEPARTMENT agree that there is a need to do work during an environmental window in a specific season of the year.

IT IS MUTUALLY AGREED that the AGREEMENT is amended as follows:

1. The LOAN amount will be increased \$21,237,895, from \$52,000,000 to \$73,237,895
2. Section IV. The PROJECT, subsection C. PROJECT Budget will be modified as follows:

Elements/Objects	Total PROJECT Cost	Total Eligible PROJECT Cost	Fiscal Year 03-07 SRF LOAN AMOUNT*
1. Project Administration and Management	\$3,440,000	\$3,440,000	\$3,440,000
2. Design and Construction	\$90,560,000	\$90,560,000	\$69,797,895
3. Facility Plan Amendment(s)	Included above	Included above	Included above
Totals	\$94,000,000	\$94,000,000	\$73,237,895

\*Note: Ecology's Fiscal Office will track to the total eligible project cost in the LOAN Amount total. Item costs on the LOAN Amount column are proportionately reduced to reflect LOAN Amount available.

3. The interest rate associated with the FY 2003 LOAN and the FY 2007 LOAN are different and requires that the LOAN be split into two phases.

- Phase A will cover all disbursements up to \$52,000,000 and will be known as L040006A.

The estimated loan repayment schedule number 958, created on November 11, 2006, will be replaced with the attached Estimated Loan Repayment Schedule number 1135, created on January 16, 2007.

The Initiation of Operations date, the Project Completion date, the term of 20 years, and the interest rate of 1.5 percent remain unchanged.

- Phase B will cover all disbursements up to \$21,237,895 and will be known as L040006B.

A term of 20 years and an interest rate of 2.6 percent will apply to L040006B.

The project completion date will be May 1, 2008, and based on the Initiation of Operation date of August 1, 2007, loan repayment will commence no later than August 1, 2008.

The Phase B estimated loan repayment schedule number 1133, created on January 16, 2007, is attached.

FURTHER, this amendment will be effective upon the date of signature by the Water Quality Program Manager of the DEPARTMENT.

Except as expressly provided by this amendment, all other terms and conditions of the original AGREEMENT and all prior amendments thereto remain in full force and effect.





STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000  
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

June 17, 2008

Mr. Eric Johnson P. E.  
Department of Public Works  
City of Tacoma  
2201 Portland Avenue  
Tacoma, WA 98421

**Re: Washington State Water Pollution Control Revolving Fund  
Tacoma Central Treatment Plant Upgrade  
Loan No. L040006A and B  
Final Loan Amendments for Signature**

Dear Mr. Johnson:

Enclosed are six original Washington State Water Pollution Control Revolving Fund loan agreement amendments between the Department of Ecology and the city of Tacoma. These amendments (L040006A and B) will closeout the Central Treatment Plant Upgrade project.

If you find these agreement amendments to be satisfactory, please have the City Manager, Interim Public Works Director, Risk Manager, City Attorney, and the City Clerk sign and date all six original loan agreement amendments and return them to me.

When the signature process is completed by Ecology, I will send you a signed original loan agreement amendment for L040006A and B for your records.

If you should have any questions, please telephone me at (360) 407-6510.

Sincerely,

Brian Howard  
State Revolving Fund Coordinator  
Water Quality Program

Enclosures

cc: David Dougherty, Ecology/WQSWRO

City of Tacoma PW-SE

WE JUN 19 '08



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

RECEIVED

DEC 13 2011

WA State Department  
of Ecology (SWRO)

**AMENDMENT NO. 3 (FINAL)  
TO LOAN AGREEMENT NO. L1000007**

**BETWEEN  
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY  
AND  
CITY OF TACOMA**

**PURPOSE:** To amend the above-referenced loan agreement (AGREEMENT) between the state of Washington Department of Ecology (DEPARTMENT) and the City of Tacoma (RECIPIENT) for the Stormwater Treatment Retrofit Project (PROJECT). This amendment is needed to deobligate a portion of the American Recovery and Reinvestment Act of 2009 (Recovery Act) loan and officially close out the project and establish a final LOAN repayment schedule.

**IT IS MUTUALLY AGREED** that the AGREEMENT is amended as follows:

- The original Total Recovery Act LOAN amount is decreased by \$294,694.76, from \$1,219,956 to \$925,261.24 based upon the final eligible costs for the project.
  - The Recovery Act LOAN is decreased by \$147,347.38, from \$609,978 to \$462,630.62.
  - The Forgivable principal portion of the LOAN Amount is decreased by \$147,347.39, from \$609,978 to \$462,630.61.
- In addition, \$11,175.02 of interest has accrued from previous disbursements and is included in the final loan amount.
- The PROJECT Completion and Initiation of Operation Date is December 31, 2010, and based on these dates, LOAN repayment will begin on December 31, 2011.
- The Estimated Loan Repayment Schedule Number 1494 created on January 13, 2010, shall be replaced with the attached Final Loan Repayment Schedule Number 1638 created on July 25, 2011.



# FINAL LOAN REPAYMENT SCHEDULE

## (REVISED) ATTACHMENT 8

Loan Number	L1000007	Loan Amount	\$473,805.64
Recipient Name	City of Tacoma	Term of Loan	39 Payments
Amortization Method	Compound-365 D/Y	Annual Int. Rate	2.900 %
Project Completion Date	12/31/2010	Interest Compounded	Monthly
Initiation of Operations	12/31/2010	Loan Date	06/30/2011

Loan Number	L1000007		
Recipient Name	City of Tacoma	Department of Ecology	

Date Created 07/25/2011

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
1	12/31/2011	\$16,016.78	\$6,911.82	\$9,104.96	\$464,700.68
<b>SubTotal 2011</b>		<b>\$16,016.78</b>	<b>\$6,911.82</b>	<b>\$9,104.96</b>	
2	06/30/2012	\$16,016.78	\$6,779.00	\$9,237.78	\$455,462.90
3	12/31/2012	\$16,016.78	\$6,644.24	\$9,372.54	\$446,090.36
<b>SubTotal 2012</b>		<b>\$32,033.56</b>	<b>\$13,423.24</b>	<b>\$18,610.32</b>	
4	06/30/2013	\$16,016.78	\$6,507.52	\$9,509.26	\$436,581.10
5	12/31/2013	\$16,016.78	\$6,368.80	\$9,647.98	\$426,933.12
<b>SubTotal 2013</b>		<b>\$32,033.56</b>	<b>\$12,876.32</b>	<b>\$19,157.24</b>	
6	06/30/2014	\$16,016.78	\$6,228.05	\$9,788.73	\$417,144.39
7	12/31/2014	\$16,016.78	\$6,085.26	\$9,931.52	\$407,212.87
<b>SubTotal 2014</b>		<b>\$32,033.56</b>	<b>\$12,313.31</b>	<b>\$19,720.25</b>	
8	06/30/2015	\$16,016.78	\$5,940.38	\$10,076.40	\$397,136.47
9	12/31/2015	\$16,016.78	\$5,793.38	\$10,223.40	\$386,913.07
<b>SubTotal 2015</b>		<b>\$32,033.56</b>	<b>\$11,733.76</b>	<b>\$20,299.80</b>	
10	06/30/2016	\$16,016.78	\$5,644.24	\$10,372.54	\$376,540.53
11	12/31/2016	\$16,016.78	\$5,492.93	\$10,523.85	\$366,016.68
<b>SubTotal 2016</b>		<b>\$32,033.56</b>	<b>\$11,137.17</b>	<b>\$20,896.39</b>	
12	06/30/2017	\$16,016.78	\$5,339.41	\$10,677.37	\$355,339.31
13	12/31/2017	\$16,016.78	\$5,183.65	\$10,833.13	\$344,506.18
<b>SubTotal 2017</b>		<b>\$32,033.56</b>	<b>\$10,523.06</b>	<b>\$21,510.50</b>	
14	06/30/2018	\$16,016.78	\$5,025.62	\$10,991.16	\$333,515.02
15	12/31/2018	\$16,016.78	\$4,865.28	\$11,151.50	\$322,363.52



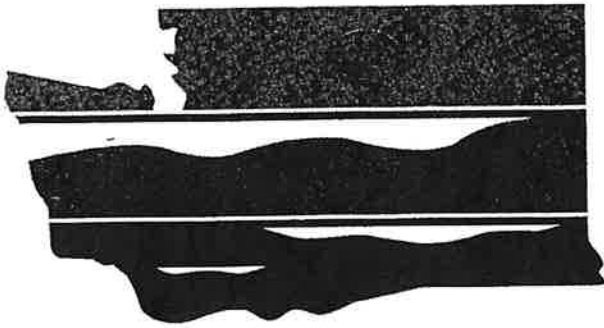
Loan Number L1000007

Recipient Name City of Tacoma

Department of Ecology

Date Created 07/25/2011

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
<b>SubTotal</b>	<b>2028</b>				
36	06/30/2029	\$32,033.56	\$2,451.85	\$29,581.71	
37	12/31/2029	\$16,016.78	\$901.49	\$15,115.29	\$46,681.96
<b>SubTotal</b>	<b>2029</b>	\$16,016.78	\$680.99	\$15,335.79	\$31,346.17
		\$32,033.56	\$1,582.48	\$30,451.08	
38	06/30/2030	\$16,016.78	\$457.27	\$15,559.51	\$15,786.66
39	12/31/2030	\$16,016.95	\$230.29	\$15,786.66	\$0.00
<b>SubTotal</b>	<b>2030</b>	\$32,033.73	\$687.56	\$31,346.17	
<b>Grand Total</b>		\$624,654.59	\$150,848.95	\$473,805.64	



WASHINGTON STATE  
DEPARTMENT OF  
E C O L O G Y

**AMENDMENT NO. 1 [FINAL]  
TO LOAN AGREEMENT NO. L040006B  
BETWEEN  
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY  
AND  
CITY OF TACOMA**

**PURPOSE:** To amend the above-referenced loan agreement (AGREEMENT) between the State of Washington Department of Ecology (DEPARTMENT) and City of Tacoma (RECIPIENT) for the Central Treatment Plant Upgrade Project (PROJECT). This amendment is needed to officially close out the project and establish a final loan repayment schedule.

IT IS MUTUALLY AGREED that the AGREEMENT is amended as follows:

- The original loan amount of \$21,237,895 remains unchanged. In addition, \$448,952.31 of interest has accrued from previous payments and is included in the final repayment amount.
- Based on the Initiation of Operation date of April 1, 2008, loan repayment shall commence no later than April 1, 2009. The project completion date shall be September 1, 2008. The RECIPIENT will use other funding to complete the project.
- The Estimated Loan Repayment Schedule Number 1133 created on January 31, 2007, shall be replaced with the attached Final Loan Repayment Schedule Number 1284 created on May 19, 2008.

FURTHER, this amendment shall be effective upon the date of signature by the Water Quality Program Manager of the DEPARTMENT.

Except as expressly provided by this amendment, all other terms and conditions of the original AGREEMENT and all prior amendments thereto remain in full force and effect.

Recipient Name: City of Tacoma  
Project Title: Central Treatment Plant Upgrade Project  
Loan No.: L040006B

IN WITNESS WHEREOF, the parties have executed this amendment.

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

**CITY OF TACOMA**

\_\_\_\_\_  
**KELLY SUSSEWIND**                      **DATE**  
**INTERIM PROGRAM MANAGER**  
**WATER QUALITY PROGRAM**

\_\_\_\_\_  
**ERIC A. ANDERSON**                      **DATE**  
**CITY MANAGER**

\_\_\_\_\_  
**MICHAEL P. SLEVIN, III, P.E.,** **DATE**  
**INTERIM PUBLIC WORKS**  
**DIRECTOR**

\_\_\_\_\_  
**ROBERT K. BILES,**                      **DATE**  
**DIRECTOR OF FINANCE**

\_\_\_\_\_  
**DEBBIE DAHLSTROM,**                      **DATE**  
**RISK MANAGER**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**ASSISTANT CITY ATTORNEY**  
**Attest:**                                      **DATE**

\_\_\_\_\_  
**DORIS SORUM,**                              **DATE**  
**CITY CLERK**

**APPROVED AS TO FORM ONLY  
ASSISTANT ATTORNEY GENERAL**

(Revised 4/28/05)



## FINAL LOAN REPAYMENT SCHEDULE

### (REVISED) ATTACHMENT 8

<b>Loan Number</b>	L040006B	<b>Loan Amount</b>	\$ 21,686,847.31
		<i>Amt loan Amt</i>	
<b>Recipient Name</b>	Tacoma City	<b>Term of Loan</b>	39 Payments
<b>Amortization Method</b>	Compound-365 D/Y	<b>Annual Int. Rate</b>	2.600 %
<b>Project Completion Date</b>	09/01/2008	<b>Interest Compounded</b>	Monthly
<b>Initiation of Operations</b>	04/01/2008	<b>Loan Date</b>	04/30/2008 <i>8/1/07</i>

<b>Loan Number</b>	L040006B	<b>Department of Ecology</b>	
<b>Recipient Name</b>	Tacoma City	<b>Date Created</b>	05/19/2008

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
1	04/01/2009	\$721,150.42	\$523,954.52	\$197,195.90	\$21,489,651.41
2	10/01/2009	\$721,150.42	\$280,883.08	\$440,267.34	\$21,049,384.07
<b>SubTotal</b>	<b>2009</b>	<b>\$1,442,300.84</b>	<b>\$804,837.60</b>	<b>\$637,463.24</b>	
3	04/01/2010	\$721,150.42	\$275,128.51	\$446,021.91	\$20,603,362.16
4	10/01/2010	\$721,150.42	\$269,298.73	\$451,851.69	\$20,151,510.47
<b>SubTotal</b>	<b>2010</b>	<b>\$1,442,300.84</b>	<b>\$544,427.24</b>	<b>\$897,873.60</b>	
5	04/01/2011	\$721,150.42	\$263,392.74	\$457,757.68	\$19,693,752.79
6	10/01/2011	\$721,150.42	\$257,409.57	\$463,740.85	\$19,230,011.94
<b>SubTotal</b>	<b>2011</b>	<b>\$1,442,300.84</b>	<b>\$520,802.31</b>	<b>\$921,498.53</b>	
7	04/01/2012	\$721,150.42	\$251,348.19	\$469,802.23	\$18,760,209.71
8	10/01/2012	\$721,150.42	\$245,207.58	\$475,942.84	\$18,284,266.87
<b>SubTotal</b>	<b>2012</b>	<b>\$1,442,300.84</b>	<b>\$496,555.77</b>	<b>\$945,745.07</b>	
9	04/01/2013	\$721,150.42	\$238,986.71	\$482,163.71	\$17,802,103.16
10	10/01/2013	\$721,150.42	\$232,684.53	\$488,465.89	\$17,313,637.27
<b>SubTotal</b>	<b>2013</b>	<b>\$1,442,300.84</b>	<b>\$471,671.24</b>	<b>\$970,629.60</b>	
11	04/01/2014	\$721,150.42	\$226,299.98	\$494,850.44	\$16,818,786.83
12	10/01/2014	\$721,150.42	\$219,831.98	\$501,318.44	\$16,317,468.39
<b>SubTotal</b>	<b>2014</b>	<b>\$1,442,300.84</b>	<b>\$446,131.96</b>	<b>\$996,168.88</b>	
13	04/01/2015	\$721,150.42	\$213,279.44	\$507,870.98	\$15,809,597.41
14	10/01/2015	\$721,150.42	\$206,641.25	\$514,509.17	\$15,295,088.24
<b>SubTotal</b>	<b>2015</b>	<b>\$1,442,300.84</b>	<b>\$419,920.69</b>	<b>\$1,022,380.15</b>	
15	04/01/2016	\$721,150.42	\$199,916.29	\$521,234.13	\$14,773,854.11

Loan Number L040006B  
 Recipient Name Tacoma City

Department of Ecology  
 Date Created 05/19/2008

Payment #	Due Date	Payment Amount	Interest	Principal	Balance
16	10/01/2016	\$721,150.42	\$193,103.44	\$528,046.98	\$14,245,807.13
<b>SubTotal</b>	<b>2016</b>	<b>\$1,442,300.84</b>	<b>\$393,019.73</b>	<b>\$1,049,281.11</b>	
17	04/01/2017	\$721,150.42	\$186,201.54	\$534,948.88	\$13,710,858.25
18	10/01/2017	\$721,150.42	\$179,209.42	\$541,941.00	\$13,168,917.25
<b>SubTotal</b>	<b>2017</b>	<b>\$1,442,300.84</b>	<b>\$365,410.96</b>	<b>\$1,076,889.88</b>	
19	04/01/2018	\$721,150.42	\$172,125.92	\$549,024.50	\$12,619,892.75
20	10/01/2018	\$721,150.42	\$164,949.83	\$556,200.59	\$12,063,692.16
<b>SubTotal</b>	<b>2018</b>	<b>\$1,442,300.84</b>	<b>\$337,075.75</b>	<b>\$1,105,225.09</b>	
21	04/01/2019	\$721,150.42	\$157,679.94	\$563,470.48	\$11,500,221.68
22	10/01/2019	\$721,150.42	\$150,315.03	\$570,835.39	\$10,929,386.29
<b>SubTotal</b>	<b>2019</b>	<b>\$1,442,300.84</b>	<b>\$307,994.97</b>	<b>\$1,134,305.87</b>	
23	04/01/2020	\$721,150.42	\$142,853.86	\$578,296.56	\$10,351,089.73
24	10/01/2020	\$721,150.42	\$135,295.16	\$585,855.26	\$9,765,234.47
<b>SubTotal</b>	<b>2020</b>	<b>\$1,442,300.84</b>	<b>\$278,149.02</b>	<b>\$1,164,151.82</b>	
25	04/01/2021	\$721,150.42	\$127,637.67	\$593,512.75	\$9,171,721.72
26	10/01/2021	\$721,150.42	\$119,880.09	\$601,270.33	\$8,570,451.39
<b>SubTotal</b>	<b>2021</b>	<b>\$1,442,300.84</b>	<b>\$247,517.76</b>	<b>\$1,194,783.08</b>	
27	04/01/2022	\$721,150.42	\$112,021.12	\$609,129.30	\$7,961,322.09
28	10/01/2022	\$721,150.42	\$104,059.42	\$617,091.00	\$7,344,231.09
<b>SubTotal</b>	<b>2022</b>	<b>\$1,442,300.84</b>	<b>\$216,080.54</b>	<b>\$1,226,220.30</b>	
29	04/01/2023	\$721,150.42	\$95,993.66	\$625,156.76	\$6,719,074.33
30	10/01/2023	\$721,150.42	\$87,822.47	\$633,327.95	\$6,085,746.38
<b>SubTotal</b>	<b>2023</b>	<b>\$1,442,300.84</b>	<b>\$183,816.13</b>	<b>\$1,258,484.71</b>	
31	04/01/2024	\$721,150.42	\$79,544.48	\$641,605.94	\$5,444,140.44
32	10/01/2024	\$721,150.42	\$71,158.29	\$649,992.13	\$4,794,148.31
<b>SubTotal</b>	<b>2024</b>	<b>\$1,442,300.84</b>	<b>\$150,702.77</b>	<b>\$1,291,598.07</b>	
33	04/01/2025	\$721,150.42	\$62,662.49	\$658,487.93	\$4,135,660.38
34	10/01/2025	\$721,150.42	\$54,055.65	\$667,094.77	\$3,468,565.61
<b>SubTotal</b>	<b>2025</b>	<b>\$1,442,300.84</b>	<b>\$116,718.14</b>	<b>\$1,325,582.70</b>	
35	04/01/2026	\$721,150.42	\$45,336.30	\$675,814.12	\$2,792,751.49

**Loan Number** L040006B  
**Recipient Name** Tacoma City

**Department of Ecology**  
**Date Created** 05/19/2008

<b>Payment #</b>	<b>Due Date</b>	<b>Payment Amount</b>	<b>Interest</b>	<b>Principal</b>	<b>Balance</b>
36	10/01/2026	\$721,150.42	\$36,502.99	\$684,647.43	\$2,108,104.06
<b>SubTotal</b>	<b>2026</b>	<b>\$1,442,300.84</b>	<b>\$81,839.29</b>	<b>\$1,360,461.55</b>	
37	04/01/2027	\$721,150.42	\$27,554.23	\$693,596.19	\$1,414,507.87
38	10/01/2027	\$721,150.42	\$18,488.50	\$702,661.92	\$711,845.95
<b>SubTotal</b>	<b>2027</b>	<b>\$1,442,300.84</b>	<b>\$46,042.73</b>	<b>\$1,396,258.11</b>	
39	04/01/2028	\$721,150.22	\$9,304.27	\$711,845.95	\$0.00
<b>SubTotal</b>	<b>2028</b>	<b>\$721,150.22</b>	<b>\$9,304.27</b>	<b>\$711,845.95</b>	
<b>Grand Total</b>		<b>\$28,124,866.18</b>	<b>\$6,438,018.87</b>	<b>\$21,686,847.31</b>	