



**State of Washington
Washington State Historical Society**

Contract #: 25-22

Grantee: City of Mercer Island

1. PARTIES TO THE CONTRACT

This state funded Contract for Heritage Capital Projects (Contract) is entered between City of Mercer Island, 9611 SE 36th St, Mercer Island, Washington, 98040 (Grantee) and the Washington State Historical Society, 1911 Pacific Avenue, Tacoma, Washington 98402 (Agency), and shall be binding upon all agents and all persons acting by or through the parties.

2. PURPOSE OF CONTRACT

This Contract, including ATTACHMENTS A through H (collectively referred to hereafter as "Contract"), sets out the terms and conditions by which a grant is made for a Heritage Capital project during the 2023-2025 biennium from funds appropriated by the Washington State Legislature in Engrossed Substitute Senate Bill 5200 which was incorporated into the Capital Budget signed into law by the governor on May 16, 2023. RCW 27.34.330 provides statutory authorization for the funding program. The program is administered by the Agency.

3. DESCRIPTION OF HERITAGE CAPITAL PROJECT

Funds awarded under this Contract shall be used by the Grantee solely for the "Luther Burbank Park Boiler Building Phase 1 Stabilization," located at 2040 84th Ave SE, Mercer Island Washington, 98040, as described in ATTACHMENT B (PROJECT SCOPE OF WORK), and for the express purposes of the grant as described in ATTACHMENT C (PURPOSE OF PROJECT).

4. CONSIDERATION

The parties agree that, in exchange for the grant money awarded pursuant to this Contract, the State of Washington and the Agency shall receive in consideration the preservation and interpretation of historical sites and artifacts that have the potential to provide lifelong learning opportunities for the citizens of the state, as described in this Contract, including ATTACHMENT B (PROJECT SCOPE OF WORK) and ATTACHMENT C (PURPOSE OF PROJECT).

5. AMOUNT OF GRANT

The Washington State Legislature appropriated five hundred thirteen thousand dollars (\$513,000.00). Of this appropriation, the total funds available to the Grantee for reimbursement of eligible costs shall be four hundred ninety-seven thousand six hundred ten dollars (\$497,610.00). The Agency shall retain three percent (3.0%) of the appropriation, which is fifteen thousand three hundred ninety dollars (\$15,390.00) as the cost of administering the grant and this Contract.

6. COST SHARE

The total cost of the projects shall include only those costs that are eligible expenditures as described in ATTACHMENT D (PROJECT BUDGET). Grantee agrees that the amount of state funding shall not exceed thirty-three and thirty-three one hundredths percent (33.33%) of the total cost of the project. The non-state portion of the total cost of the project shall be the Grantee's cost share of the total cost of the project. The amount of the Grantee's cost share shall be one million twenty-six thousand dollars (\$1,026,000.00).

7. PERIOD OF PERFORMANCE

The period of performance under this Contract shall be from the date of the last signature of the contracting parties to June 30, 2025. Without further appropriation from the legislature, expenditures beyond this date shall not be reimbursed. The requirement set forth below in Section 8 to maintain ownership or a lease on the subject property, and to use it for the express purposes of the grant, shall remain in full force and effect for thirteen years following the date of contract completion, as defined in ATTACHMENT A (GENERAL PROVISIONS).

8. CAPITAL IMPROVEMENTS TO BE HELD BY GRANTEE

- a. Capital improvements funded by the Heritage Capital Projects grant are to be used for the express purpose of this grant. No funds appropriated for a Heritage Capital Projects grant shall be used for capital improvements not included in the legislative appropriation and specifically designated in this Contract with the Agency.
- b. As required by RCW 27.34.330, capital improvements funded by this grant shall be held by the Grantee for at least thirteen (13) years from the date of contract completion; the facilities shall be used for the express purpose of the grant as set forth in this Contract, including ATTACHMENT B (PROJECT SCOPE OF WORK) and ATTACHMENT C (PURPOSE OF PROJECT); and, if mobile, used primarily in Washington State. The Grantee agrees that it will maintain ownership or lease of ALL property to be held, as described in ATTACHMENT G (PROPERTY PARCEL NUMBER(S) AND LEGAL DESCRIPTION(S)), for thirteen (13) years beyond the date of contract completion. Failure to maintain ownership or a lease on the subject property for thirteen years following the date of contract completion shall constitute a breach of this Contract. Pursuant to the terms of this Contract and RCW 27.34.330, if the Grantee is found to be in breach of this Contract, the Grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.
- c. The Agency maintains right of entry for thirteen (13) years from the date of contract completion to ensure continued compliance with this Contract. The Grantee will be monitored for continued property control and project outcomes as described in the contract statement of purpose. Monitoring tools appropriate to the project purpose will be determined during the project closeout process and declared in writing from the Agency to the Grantee. Monitoring tools may include, but are not limited to, reporting of annual metrics as declared in the project closeout letter, scheduled and unscheduled site visits, or requests for images for publication. During the monitoring period, the Grantee may request mitigation of monitoring tools to support enhancing the public benefit provided by the Grantee.

9. REAPPROPRIATION

The parties hereto agree and understand that any state funds not expended and billed by end of the biennium, June 30, 2025, will lapse on that date unless reappropriated by the Washington State Legislature. If funds are so reappropriated, the Agency's obligation under the terms of this Contract shall be contingent upon terms of such reappropriation. Grantee may not rely to its detriment upon use of funds not properly billed or not appropriated. The Grantee shall be allowed only two requests for reappropriation of the funds awarded in this Contract. Approval of such requests is not guaranteed.



10. RIGHTS AND OBLIGATIONS

All rights and obligations of the parties to this Contract are subject to this Contract, which include the following attachments, and which are made a part of this Contract:

- ATTACHMENT A (GENERAL PROVISIONS)
- ATTACHMENT B (PROJECT SCOPE OF WORK)
- ATTACHMENT C (PURPOSE OF PROJECT)
- ATTACHMENT D (PROJECT BUDGET)
- ATTACHMENT E (SOURCE OF AVAILABLE FUNDS)
- ATTACHMENT F (CERTIFICATION OF AGREEMENT TO FOLLOW ALL LAWS)
- ATTACHMENT G (PROPERTY PARCEL NUMBER(S) AND LEGAL DESCRIPTIONS)
- ATTACHMENT H (LEASES, CONTRACTS, AND AGREEMENTS)

11. ENTIRE CONTRACT

This Contract, including all attachments, constitutes the entire agreement between Agency and Grantee and supersedes all previous written or oral agreements or understandings between the Agency and Grantee related to this Contract. This Contract may be amended as set forth in the Contract Modifications in ATTACHMENT A (GENERAL PROVISIONS).

12. CONTRACT REPRESENTATIVES

The Grantee’s representative shall be the contact person for all communications and billings regarding the performance of this Contract. The Grantee’s representative shall be:

Paul West, CIP Project Manager
 City of Mercer Island
 9611 SE 36th St, Mercer Island, Washington 98040
 206-677-1028
 paul.west@mercerisland.gov

The Agency’s representative shall be the contact person for all communications and billings regarding the performance of this Contract. The Agency’s representative shall be:

Jennifer (Jay) Baersten, Director of Heritage Outreach
 Washington State Historical Society
 1911 Pacific Avenue, Tacoma, Washington 98402
 253-244-1683
 jay.baersten@wshs.wa.gov

13. SIGNATURES

Jennifer Kilmer, Executive Director
 Washington State Historical Society

Jessi Bon, City Manager
 City of Mercer Island
 Federal Tax ID#: 91-6017561

Date

Date

**CONTRACT #: 25-22
 ATTACHMENT A
 GENERAL PROVISIONS**

CONTENTS

A. HEADINGS AND DEFINITIONS	5
1. Headings	5
2. Definitions	5
B. GENERAL CONTRACT TERMS	6
1. Order of Precedence	6
2. Contract Modifications	6
3. No Waiver	6
C. PERFORMANCE AND GENERAL RESPONSIBILITIES	7
1. Non assignability	7
2. Independent Capacity of Grantee	7
3. Ownership of Project/ Capital Improvements	7
4. Hold Harmless	7
5. Acknowledgement	7
6. Ethics Compliance	7
7. Public Disclosure/ Confidentiality	8
D. COMPLIANCE WITH LAWS, RECORDS, AND INSPECTIONS	8
1. Compliance with Applicable Law	8
2. Records, Reports, and Audits	8
3. Right of Entry	9
4. Evaluation and Monitoring	9
5. Hazardous Substances	9
6. Governor’s Executive Order 21-02	9
7. Prevailing Wage Law	9
8. Industrial Insurance Coverage	9
9. Nondiscrimination Provision	10
E. FUNDING REIMBURSEMENT AND BUDGET	10
1. Reimbursement	10
2. Recapture of Funds	10
3. Reduction in Funds	11
F. TERMINATION AND DISPUTES	11
1. Dispute Resolution	11
2. Termination or Suspension for Cause	11
3. Termination for Convenience	12
4. Termination for Fraud or Misrepresentation	12
5. Termination Procedures	12
6. Governing Law and Venue	13
7. Severability	13

A. HEADINGS AND DEFINITIONS

1. Headings

Headings used in this Contract are for reference purposes only and shall not be considered a substantive part of this Contract.

2. Definitions

Agency- the Washington State Historical Society.

Authorized Representative- an elected or appointed officer of the corporation or agency, or alternate designated in writing by the Grantee's governing authority, who acts officially on the Grantee's behalf.

Authorized Signatory- an executive officer of the corporation or agency's governing authority designated to sign contracts on behalf of the Grantee.

Cash match- money from the grantee organization or from other sources, which can include grants from foundations, nonstate governmental agencies, individuals, corporations, and others.

Cost share- those costs, including cash and in-kind, that the grantee will incur from its own resources or from other cooperating organizations to complete the project described in the Contract.

Date of grant authorization- the date the Washington State Legislature initially appropriated funds for the project.

Date of contract authorization- the last date of an authorized signature on the Contract Form.

Date of contract completion- the date of the project closeout letter from the Agency which initiates the thirteen (13) year monitoring period.

Grantee- the applicant that has been awarded a grant of funds and is bound by this executed Contract, including any officers, employees, or agents lawfully representing the Grantee.

Heritage organization- a group whose purpose is to collect, preserve, or interpret history, heritage, and culture.

Heritage capital project- project that involves the physical plant of a heritage organization, a historic landscape, archaeological site, historic ship, locomotive, airplane, other transportation conveyance, or acquisition of a property for protection and stabilization of heritage resources or by a heritage organization for purposes of new construction.

In-kind contributions- contributions to a project that are not part of cash match. May include materials and supplies, professional consultation, legal and accounting services specific to the project, architectural design fees, and volunteer labor.

Local government agency- city or county agency, port district, or public development authority.

Nonprofit organization- organization incorporated under the nonprofit laws of the state of Washington and holding a 501(c)(3) tax determination from the IRS.

Other entity- As authorized by RCW 27.34.330, an entity that meets all criteria for Heritage capitol project funding and can be considered for a grant award at the discretion of the Washington State Historical Society

Real property value- fair market value of real property when such property is acquired solely for the purpose of a heritage capital project. Evidenced by a current fair market appraisal performed by a qualified, professional real estate appraiser.

Total project costs- include, but are not limited to, the amount sought from the fund and what the applicant will provide as cost share.

B. GENERAL CONTRACT TERMS

1. Order of Precedence

The items listed below are incorporated by reference herein. In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order.

1. Applicable federal and Washington State statutes and regulations
2. State executive orders
3. Terms and conditions of this Contract
4. ATTACHMENT A (GENERAL PROVISIONS)
5. Other attachments or material incorporated by reference.

2. Contract Modifications

- a) This Contract may be modified by mutual agreement of the parties. Such modifications shall not be binding unless in writing and signed by both parties prior to implementation of the modifications. Any oral understanding or agreement not incorporated herein shall not be binding.
- b) Budget modification by the Grantee of not more than ten (10) percent of any line item or combination of line items from the Project Budget (ATTACHMENT D) is excepted from subsection 2(a). Modifications that increase a line item must be offset by reductions in other line items so there is no increase to the total amount available to the Grantee in this grant.
- c) The Grantee shall notify the Agency in writing prior to making any budget modification or combination of budget modifications that would exceed ten (10) percent of any line item. Budget modifications exceeding ten (10) percent of any line item or combination of line items constitutes a Contract Modification and must be approved by both parties in writing prior to implementation of the modification.

3. No Waiver

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

C. PERFORMANCE AND GENERAL RESPONSIBILITIES

1. **Non assignability**

Neither this Contract nor any claim arising under this Contract shall be transferred or assigned by the Grantee without written permission from the Agency.

2. **Independent Capacity of Grantee**

The parties intend that an independent relationship will be created by this Contract. The Grantee and its employees or agents performing under this Contract are not employees or agents of the Agency. The Grantee and its employees or agents will not hold themselves out as nor claim to be officers or employees of the Agency or of the State of Washington by reason of this Contract and will not make any claim, demand, or application to or for any right or privilege which would accrue to such employee under law. Conduct and control of the work will solely be with the Grantee.

3. **Ownership of Project/ Capital Improvements**

The Agency makes no claim to any real property improved or constructed with funds awarded under this Contract and does not assert and will not acquire any ownership interest in or title to the capital facilities and/ or equipment constructed or purchased with state funds under this Contract. This provision does not extend to claims that the Agency may bring against the Grantee in recapturing funds expended in violation of this Contract.

4. **Hold Harmless**

To the extent permitted by law, the Grantee shall defend, protect, and hold harmless the State of Washington and the Agency, its employees, agents, officers, and assigns from and against all claims, suits, or actions arising from the Grantee's acts or omissions and those of its employees, officers, and agents, including those which are libelous or slanderous, which result in injury to persons or property, which violate a right of confidentiality, or which constitute an infringement of any copyright, patent, trademark, or tradename through use or reproduction of material of any kind. The Grantee shall be required to indemnify, defend, and hold harmless the State only to the extent the claim is caused in whole or in part by negligent acts or omissions of the Grantee.

The Grantee waives its immunity under Title 51 RCW (Industrial Insurance) to the extent required to indemnify, defend, and hold harmless Agency, the state of Washington and agencies, officials, agents, or employees of the state.

5. **Acknowledgement**

The Grantee shall announce in its publicity materials, on a posted sign during the project, and on a permanent marker that the State of Washington is a source and the Washington State Historical Society the administrator of these funds unless such requirement is modified or waived in writing by the Agency.

6. **Ethics Compliance**

The Agency may, by written notice to the Grantee, terminate this Contract if it is found after due notice and examination by the Agency that there is a violation of the Code of Ethics for Municipal Officers (Chapter 42.23 RCW) or any similar statute involving the Grantee in the procurement of, or the performance under, this Contract.

7. Public Disclosure/ Confidentiality

- a) The Grantee acknowledges that the Agency is subject to the Public Records Act (Chapter 42.56 RCW), and that this Contract shall be a public record as defined. Any specific information that is claimed by the Grantee to be confidential or proprietary must be clearly identified as such by the Grantee. If a request is made to view the Grantee's information marked as confidential, the Agency will notify the Grantee of the request and the date that such records will be released to the requestor unless the Grantee obtains a court order enjoining that disclosure. If the Grantee fails to obtain the court order enjoining disclosure, the Agency will release the requested information on the date specified.
- b) The Grantee shall not use or disclose any information concerning the Agency, or information which may be classified as confidential for any purpose not directly connected with the administration of this Contract except (1) with prior written consent of the Agency, or (2) as may be required by law.

D. COMPLIANCE WITH LAWS, RECORDS, AND INSPECTIONS

1. Compliance with Applicable Law

- a) The Grantee agrees to be aware of, and comply with, all applicable and current federal, state, and local laws, regulations, and policies. The Grantee's confirmation of this requirement is contained in ATTACHMENT F (CERTIFICATION OF AGREEMENT TO FOLLOW ALL LAWS). Agency is not responsible for determining compliance.
- b) In the event of the Grantee's noncompliance or refusal to comply with any applicable law or policy, the Contract may be suspended or terminated in whole or in part, and the Grantee and the project may be declared ineligible for further grant awards from the Agency.
- c) The Grantee further agrees to indemnify and hold harmless the Agency from all liability, damages, and costs of any nature including but not limited to costs of suits and attorneys' fees assessed against the Agency, as a result of the failure of the Grantee to so comply.

2. Records, Reports, and Audits

- a) The Grantee shall maintain books, records, documents, and other evidence of accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the Agency, the Office of the State Auditor, and federal officials so authorized by law, rule, regulation, or Contract. The Grantee will retain all books, records, documents, and other materials relevant to this Contract for six years after full termination or expiration of this Contract, which includes the thirteen (13) year monitoring period that begins on the date of the closeout letter at contract completion, and make them available for inspection by persons authorized under this provision. If any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- b) The Grantee shall comply with all auditing requirements, including audit requirements for the expenditure of more than \$100,000 or more in total state funds in a fiscal year, if applicable.

3. Right of Entry

The Grantee shall provide right of access of its facilities to the Agency or to any of its officers, or to any other authorized agent or official of the state of Washington or the federal government at all reasonable times, in order to monitor and evaluate performance, compliance, and/ or quality assurance under this Contract.

4. Evaluation and Monitoring

- a) The Grantee shall cooperate with and fully participate in any monitoring or evaluation activities conducted by the Agency that are relevant to compliance with this Contract, including providing initial and updated project plans for Agency review and approval and facilitating record production and periodic site inspections.
- b) The Grantee shall provide the Agency with digital images and narratives that depict the progress made on the project. Such images will be used by the Agency to support reimbursement requests and to inform the public about the grant program on the web and elsewhere. Images and narratives shall be provided with each request for reimbursement.

5. Hazardous Substances

The Grantee will defend, protect, and hold harmless the Agency, and any and all of its employees and/ or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorney's fees), and any and all loss of any nature from any and all claims or suits resulting from the presence of, or release or threatened release, of hazardous substances as defined in RCW 70.105D.020, on the property covered by the Contract.

6. Governor's Executive Order 21-02

The Grantee shall comply with Governor's Executive Order 21-02. In the event that historical or cultural artifacts are discovered at the project site during construction, the Grantee shall immediately stop construction and notify the local historical preservation officer and the state historical preservation officer at the Washington State Department of Archaeology and Historic Preservation.

7. Prevailing Wage Law

The project funded under this Contract may be subject to state Prevailing Wage law (RCW 39.12). The Grantee is advised to consult with the Industrial Statistician at the Washington State Department of Labor and Industries to determine whether prevailing wage must be paid. The Agency is not responsible for determining whether prevailing wage applies to this project or for any prevailing wage payments that may be required by law.

8. Industrial Insurance Coverage

The Grantee shall comply with all applicable provisions of Title 51 RCW (Industrial Insurance).

9. **Nondiscrimination Provision**

- a) During the performance of this Contract, the Grantee shall abide by all applicable federal and state nondiscrimination laws and regulations, including but not limited to Washington’s Law Against Discrimination (RCW 49.60) and the Americans with Disabilities Act (42 U.S.C. 12101 et. seq.).
- b) In the event of the Grantee’s noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this Contract may be suspended or terminated in whole or in part, and the Grantee may be declared ineligible for further Contracts with the Agency. The Grantee shall, however, be given a reasonable time in which to remedy in accordance with the “Dispute Resolution” procedure set forth in Section 25 of this Contract Attachment.

E. **FUNDING REIMBURSEMENT AND BUDGET**

1. **Reimbursement**

- a) Payment to the Grantee shall be made on a reimbursement basis only, for eligible costs incurred, using forms provided by the Agency. Reimbursement shall be allowed for (1) actual costs incurred and paid. No advance payments shall be made to the Grantee. Purchases of goods will be reimbursed upon receipt, and services will be reimbursed upon completion of work.
- b) Each request for reimbursement shall include a state voucher form and digital images and a narrative report describing the work completed and the status of the project. The reimbursement request shall not include any costs already reimbursed by or charged against any other grant or other source. The voucher must be certified by an official of the Grantee with the authority bind the Grantee.
- c) After receiving and approving the voucher and accompanying information, the Agency shall promptly remit a warrant to the Grantee. The obligation of the Agency to pay any amount(s) under this Contract is expressly conditioned upon compliance with the terms of this Contract by the Grantee.
- d) The expenditure of state funds shall not exceed the intended state share of the total cost of the project at any time, and shall be consistent with the Legislative appropriation.
- e) The final request for reimbursement under this Contract shall be submitted by the Grantee to the Agency within fifteen (15) days following the completion of the work or other termination of the Contract and be accompanied by a final narrative report and digital images of the completed project.

2. **Recapture of Funds**

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

3. Reduction in Funds

In the event state funds appropriated for the work contemplated under this Contract are withdrawn, reduced, or limited in any way by the Governor or the Washington State Legislature during the Contract period, the Agency may suspend or terminate the Contract under the Termination for Convenience clause without advance notice, subject to renegotiation at the Agency's discretion, under those new funding limitations and conditions.

F. TERMINATION AND DISPUTES

1. Dispute Resolution

- a) The parties shall make every effort to resolve disputes arising out of or relating to this Contract through negotiation.
- b) Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing according to the process set out in this Section. Either party's request for dispute hearing must be in writing and clearly state:
 1. The disputed issue(s);
 2. The relative positions of the parties;
 3. The Grantee's name, address, and project title.
- c) In order for this Section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this Section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person selected by the Grantee, one person selected by the Agency, and a third person chosen by the two persons initially appointed.
- d) Any hearing under this Section shall be informal, with the specific processes to be determined by the dispute panel according to the nature and complexity of the issues involved. The process may be solely based upon written material if the parties so agree. The dispute panel shall be governed by the provisions of this Contract in deciding the dispute(s).
- e) The parties shall be bound by the decision of the dispute panel, unless the remedy directed by that panel is outside the legal authority of either or both parties to perform as necessary, or is otherwise unlawful.
- f) Request for a dispute hearing under this Section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received written notice of the action or position of the other party that it wishes to dispute. The written agreement to use the process under this Section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.
- g) All costs associated with implementation of this process shall be shared equally by the parties.

2. Termination or Suspension for Cause

- a) In the event the Agency determines the Grantee has failed to comply with the conditions of this Contract the Agency has the right to suspend or terminate the Contract. Before suspending or terminating the Contract, the Agency shall notify

the Grantee in writing of the need to take corrective action. If corrective action is not completed within 30 days of receiving notice, the Contract may be terminated or suspended.

- b) In the event of termination or suspension for cause, the Agency may require the Grantee to repay all or any portion of the state funds paid to the Grantee prior to termination.
- c) The Agency may enforce this Contract by the remedy of specific performance, which includes, but is not limited to, completion of the project as described in this Contract. However, the remedy of specific performance shall not be the sole or exclusive remedy available to the Agency. No remedy available to the Agency shall be deemed exclusive. The Agency may elect to exercise any combination, or all of the remedies available to it under this Contract, or under any provision of law, common law, or equity.

3. Termination for Convenience

- a) Notwithstanding any provisions of this Contract, either party may terminate this Contract by providing the other party with written notice of such termination, specifying the effective date thereof, at least thirty (30) days prior to such date.
- b) In the event this Contract is terminated, the Grantee shall be reimbursed for eligible expenses incurred prior to the effective date of such termination and not otherwise paid for by the Agency, as the Agency reasonably determines.

4. Termination for Fraud or Misrepresentation

In the event the Grantee commits fraud or makes any misrepresentation in connection with the grant application or during the performance of this Contract, the Agency reserves the right to terminate or amend this Contract accordingly, including the right to recapture all funds disbursed to the Grantee under the grant.

5. Termination Procedures

- a) After receipt of a notice of termination, except as otherwise directed by the Agency, the Grantee shall:
 - i. Stop work under the Contract on the date, and to the extent specified, in the notice;
 - ii. Place no further orders or sub-grants for materials, services, or facilities related to the Contract;
 - iii. Preserve and transfer any materials, Contract deliverables and/ or Agency property in the Grantee's possession as directed by the Agency.
- b) Upon termination of the Contract, the Agency may pay the Grantee for any service provided by the Grantee under the Contract prior to the date of termination, unless the Agency reasonably determines in its sole discretion that the amount due is necessary to protect the Agency against potential loss or liability resulting from the termination. The Agency shall pay any withheld amount due up to the date of termination to the Grantee if the Agency later determines that a loss or liability will not occur. Grantee shall not be paid for any work done after the termination date.
- c) The rights and remedies of the Agency under this Section are in addition to any other rights and remedies provided under this Contract or otherwise provided under law.

6. **Governing Law and Venue**

This Contract shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the state of Washington. Venue of any suit between the parties arising out of this Contract shall be the Superior Court of Thurston County, Washington. The Grantee, by execution of this Contract acknowledges the jurisdiction of the courts of the State of Washington.

7. **Severability**

If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of the Contract which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Contract, and to this end the provisions of this Contract are declared to be severable.

**CONTRACT #: 25-22
 ATTACHMENT B
 PROJECT SCOPE OF WORK**

Element of Work	Description
Structural Stabilization	<p>Install new main floor concrete slab and support footings including demolition of existing slab and drainage structures as needed</p> <p>Install interior steel structure to stabilize building shell and create new mezzanine space including stairs, a concrete deck, floor insulation, and guard rails for future buildout</p> <p>Stabilize chimney by removing top 10 feet and installing a new weather cap; removing fire brick from interior of stack; installing new tapered reinforced concrete shell on inside face of brick; and installing new concrete slab and beam inside chimney at roof level</p>
Masonry	<p>Rehabilitate existing exterior masonry, by cleaning the existing brick with methods appropriate for historic masonry, installing anchor ties, and repointing using mortar at an appropriate hardness to prevent future spalling</p> <p>Remove and reinstall existing capstone with seismic anchors</p>
Roof replacement	<p>Remove existing roofing and appurtenances as needed</p> <p>Install new membrane roofing with underlayment as per manufacturer's specifications</p> <p>Install venting, flashing, gutters, downspouts, and other appurtenances as needed</p>
Lighting and Electrical	<p>Install new interior and exterior lighting fixtures as needed; fixtures to be compatible with the historic character of the building</p> <p>Install new electrical panel and related equipment/supplies as needed</p>
Sitework	<p>Install interpretative signage onsite in Luther Burbank Park with historical information about the park and city</p>



CERTIFICATION

The Grantee, by its signature, certifies that the Project Scope of Work set forth above has been reviewed and approved by the Grantee’s governing body or board of directors, as applicable, as of the date written below. The Grantee shall make all plans and documents funded in whole or in part by this contract available to the Agency upon reasonable request.

Jessi Bon, City Manager
City of Mercer Island

Date



**CONTRACT #: 25-22
ATTACHMENT C
PURPOSE OF PROJECT**

The Grantee will construct Phase 1 improvements to the 1928 Boiler Building to preserve the historic building for future renovation as a waterfront activity center for small craft boating, such as kayaking, canoeing, rowing, paddleboarding and sailing. Following the project's completion, the Grantee will resume using the building for storage in support of its small craft boating programs. The Grantee will continue to provide public access to Luther Burbank Park and to the waterfront surrounding the Boiler Building.

Additionally, Grantee will develop a new system of historical interpretation for Luther Burbank Park. This will consist of a stylistic and replicable plaque design for historic elements at the park. Initially, the Grantee will produce four plaques with unique QR codes for each element tied to web-based electronic history content located on the STQRY platform. To ensure the production of accurate, appropriate, and high-quality history interpretation, Grantee will partner with the Mercer Island Historical Society which has a mission to collect, preserve, research, and promote the history of Mercer Island.

The electronic content will provide historical interpretation for the public ranging from the history of native peoples to present day, featuring specific physical features of the park. Initial work will focus on interpretation of four features, tentatively identified as: the historic schoolhouse from the Boys Parental School; the Boiler Building; the dairy barn foundation and orchard remnants from the farm that operated there. Future park features identified for interpretation include the wetlands created by the lowering of Lake Washington and the development of the public park in the 1970s that employed a brutalist style influence landscape architecture.

Grantee will ensure continued maintenance of the facilities, as identified in the City's Parks, Recreation and Open Space (PROS) Plan, including extending facility management and janitorial services to the renovated facility.

Maintenance, historic preservation, historical interpretation, and public access to history will be provided in alignment with field best practices for the purposes of the Heritage Capital Projects program as identified in the program's authorizing language.

CERTIFICATION

The Grantee, by its signature, certifies that the express purpose of the grant as described in Purpose of Project set forth above has been reviewed and approved by the Grantee's governing body or board of directors, as applicable, as of the date written below.

Jessi Bon, City Manager
City of Mercer Island

Date

**CONTRACT #: 25-22
 ATTACHMENT D
 PROJECT BUDGET**

Cost Category	Grantee Cost Share Cash Match	Grantee Cost Share In-Kind	HCP Grant Funds
Construction and Rehabilitation	\$1,026,000.00	\$0.00	\$497,610.00
Design and Pre-Construction	\$0.00	\$0.00	\$0.00
Property Acquisition	\$0.00	\$0.00	\$0.00
Cost Share Subtotal	\$1,026,000.00	\$0.00	
Reimbursable Amount Subtotal			\$497,610.00
HCP Admin			\$15,390.00
Total Project Cost			\$1,539,000.00
<i>Percentages</i>	66.7%	0.0%	33.3%

CERTIFICATION

The Grantee, by its signature, certifies that the Project Budget set forth above has been reviewed and approved by the Grantee’s governing body or board of directors, as applicable, as of the date written below, and that the total Grantee cost share required for the project shall be received and expended by June 30, 2025.

 Jessi Bon, City Manager
 City of Mercer Island

 Date



**CONTRACT #: 25-22
ATTACHMENT E
SOURCE OF AVAILABLE FUNDS**

Source	Type of Funds	Year	Amount
Real Estate Excise Tax	Earned Income	2021	\$1,026,000.00

Type of Funds	Amount
Available Cash Cost Share	\$1,026,000.00
Available In-Kind Cost Share	\$0.00
Subtotal of all Non-State Funding	\$1,026,000.00
Grant Funds (Legislative Appropriation)	\$513,000.00
Total Project Funds Available	\$1,539,000.00

CERTIFICATION

The Grantee certifies the Source of Available Funds have been reviewed and approved by the Grantee’s governing body or board of directors as of the date of last contract signature.

By so doing, the Grantee certifies that 100% of these funds are in hand by the execution date of this Contract. All match funds are committed in writing from respective sources and are available, and will remain committed and available solely and specifically for carrying out the project as described in this Contract. Cash match and in-kind match funds are regarded as funds restricted for use solely for the contract project purposes and are committed as such in the Grantee’s accounting.

The Grantee shall maintain records sufficient to evidence that it has expended or has access to the committed funds, and shall make such records available for the Agency’s review upon request.

Jessi Bon, City Manager
City of Mercer Island

Date



**CONTRACT #: 25-22
ATTACHMENT F
CERTIFICATION OF AGREEMENT TO FOLLOW ALL LAWS**

CERTIFICATION

The Grantee, by its contract signature, certifies that it shall be aware of and comply with all applicable and current federal, state, and local laws, regulations, policies, as now or hereinafter amended including, but not limited to those related to:

- Governor's Executive Order 21-02 (*regarding prior preservation review and ongoing consultation by the state and concerned tribes for any capital projects or land acquisition projects for the purpose of capital construction*)
- Prevailing Wage Law - RCW 39.12
- Hazardous Substances - RCW 70.105D
- Industrial Insurance - RCW 51
- Washington Law Against Discrimination - RCW 49.60
- Americans with Disabilities Act - 42.U.S.C. 12101 et. esq.
- High Performance Public Buildings (LEED) - RCW 39.35D
- Greenhouse Gas Emissions - RCW 70.235

Jessi Bon, City Manager
City of Mercer Island

Date



**CONTRACT #: 25-22
ATTACHMENT G
PROPERTY PARCEL NUMBER(S) AND LEGAL DESCRIPTION(S)**

Name: Luther Burbank Park Boiler Building
Permanent Address: 2040 84th Ave SE, Mercer Island, King, 98040
Historic Designation (if applicable): N/A
Year Built: 1928
Washington State Legislative District #: 41
GPS Coordinates: 47.59093403123931, -122.22462334784151
Parcel #: 0624059014
Legal Description: Government Lot 6 In Section 6, Township 24 North, Range 5 East, W.M., In King County, Washington; Except the south 30 feet thereof conveyed to King County for road purposes by deed recorded under Auditor's File Number 1092750.

CERTIFICATION

The Grantee, by its signature, certifies that the information set forth above, including property parcel number(s) and legal description(s), have been reviewed and approved by the Grantee's governing body or board of directors, as applicable, as of the date of last contract signature.

Jessi Bon, City Manager
City of Mercer Island

Date



**CONTRACT #: 25-22
ATTACHMENT H
LEASES, CONTRACTS, AND AGREEMENTS**

Document Title	Parties	Date of Execution	Date of Expiration	Recorded In
Aquatic Lands Lease No. 20-A09917	Washington State Department of Natural Resources & City of Mercer Island	2/17/2016	1/31/2046	King County

CERTIFICATION

The Grantee, by its signature, certifies that the leases, contracts and agreements as described in the grant application and defined above have been reviewed and approved by the Grantee’s governing body or board of directors, as applicable, as of the date written below.

The Grantee also certifies that it has read and understands its obligation to hold the property for 13 years from the date of contract completion and to use the property for the express purposes of the grant as set forth in this Contract. The Grantee further certifies that it shall provide the Agency with notice of any and all modifications or additions to all leases, contracts and agreements made during the Contract Period of Performance or during the thirteen years following Grantee’s completion of the project.

Jessi Bon, City Manager
City of Mercer Island

Date