

General Fund

GRANT AGREEMENT

WPG-D-0021-25

Tualatin Water Reservoir Seismic Valves

By: City of Tualatin

OREGON WATER RESOURCES DEPARTMENT



GRANT AGREEMENT
WPG-D-0021-25
Tualatin Water Reservoir Seismic Valves

BETWEEN: **State of Oregon**, acting by and through its
Oregon Water Resources Department (Grantor),
Address: 725 Summer Street NE, Suite A, Salem, Oregon 97301-1266
Phone Number: (503) 979-9160
Facsimile Number: (503) 986-0903
E-Mail Address: OWRD.Grants@water.oregon.gov
The Grantor's Coordinator for this Grant is
Louisa Mariki

AND: City of Tualatin (Grantee)
Attn: Nic Westendorf
Title: Deputy Public Works Director
Address: 10699 SW Herman Road, Tualatin, Oregon 97062
Telephone Number: (503) 691-3673
E-Mail Address: nwestendorf@tualatin.gov

SECTION 1
LEGAL BASIS OF AWARD

Section 1.01 Legal Basis of Award. Pursuant to House Bill 5006 (2025), Oregon Laws 2025, chapter 628, Grantor is authorized to enter into a grant agreement and to make an award from moneys available to the Oregon Water Resources Department to Grantee for the purposes set forth herein.

Section 1.02 Agreement Documents. This grant agreement (“Grant Agreement” or “Agreement”) consists of this Agreement and the exhibits listed below. Exhibits A, B, C and D are attached hereto and all of the exhibits (Exhibits A through D) are incorporated into this Agreement by reference. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence:

- i. This Grant Agreement, less all exhibits;
- ii. **Exhibit A** (Conditions of Agreement);
- iii. **Exhibit B** (Grant Budget);
- iv. **Exhibit C** (Project Description); and
- v. **Exhibit D** (Permits and Regulatory Approvals).

Section 1.03 Agreement Term. This Agreement shall be effective when it is signed by the Grantor and Grantee (“Parties”) and approved as required by law (the “Effective Date”). Unless terminated earlier pursuant to Section 6 of this Agreement, this Agreement will **terminate on June 30, 2027**, or on the date that Grantor disburses the final ten percent (10%) of Grant moneys as provided in Section 2.03 of this Agreement, whichever comes first (the “Expiration Date”).

SECTION 2 GRANT AWARD

Section 2.01 Notice of Grant Award. In accordance with the terms and conditions of this Agreement, Grantor shall provide Grantee with a maximum of **\$1,750,000** (the “Grant”) from the General Fund to financially support the water resource project activities designated within the project description set forth in Exhibit C (the “Project”). The Grant amount may not be increased without a written amendment(s) to this Grant Agreement. The Grant Budget is set forth in Exhibit B.

Section 2.02 Grant Availability. Grantee shall not submit, and Grantor shall not pay, any reimbursement request (“Fund Request”) for expenditures that occur before the Effective Date or after the Expiration Date.

Section 2.03 Disbursement of Grant Moneys. Subject to Sections 2.04 and 2.05, Grantor shall disburse the Grant moneys to Grantee upon submission of the most current Fund Request Form provided by Grantor to Grantee. The Fund Request Form must be completed and signed by the Grantee with appropriate documentation of expenditures prior to approval and payout of any Grant moneys by Grantor. The Grantor will disburse the Grant moneys only as reimbursement for costs incurred by Grantee for the Project. The final 10% of Grant moneys will be disbursed to Grantee only after Grantee submits and Grantor approves the Final Report described in Exhibit A under item no. 3 and shall be contingent upon Grantee adherence to all conditions within Exhibit A. The Grantor may disburse Grant moneys after the Grant Expiration Date for reimbursement requests submitted by July 30, 2027, for expenses incurred prior to the Grant Expiration Date. Grantee may submit a Fund Request no more often than monthly.

Section 2.04 Conditions Precedent to this Agreement or any Amendment to this Agreement. Grantor’s obligations under this Agreement or under any amendment to this Agreement are subject to compliance by Grantee with all its reporting obligations under any earlier or other existing grant agreements with the Grantor.

Section 2.05 Conditions Precedent to Disbursements. Grantor’s obligation to disburse Grant moneys to Grantee pursuant to Section 2.03 is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

- (a) Grantee shall hold and maintain registration as a legal entity with the Oregon Secretary of State prior to, and throughout, the duration of the Grant;
- (b) Grantor has received sufficient funding, appropriations limitations, allotments, or other expenditure authorizations to allow Grantor, in the reasonable exercise of its administrative discretion, to make the disbursement;
- (c) Grantee’s representations and warranties set forth in Section 4 are true and correct on the date of disbursement with the same effect as though made on the date of disbursement;
- (d) Grantee is in compliance with all reporting requirements of this Agreement identified in Exhibit A;
- (e) Grantee has submitted to the Grantor, the required permits and regulatory approvals listed in Exhibit C “Project Description” and Exhibit D “Permits and Regulatory Approvals” or as are otherwise required for the Project. As required by ORS 541.692(1), Grantee must obtain all applicable local, state, and federal permits prior to release of funds for the Project. Grantor shall require that Grantee obtain all permits or regulatory approvals required for the Project, even those not previously identified by the Grantee, before disbursing Grant moneys. In its sole discretion, Grantor may condition the release of funds based on specific circumstances of the Project. By executing this Agreement, Grantee acknowledges that it has reviewed Exhibit A Conditions of Agreement.
- (f) For Project tasks that take place on private land(s), Grantee has submitted to the Grantor:

- 1) Evidence that landowner(s) are aware of and agree to the task. Evidence shall include, but is not limited to: (i) landowner(s) certification that the landowner owns the land where the work will be carried out and (ii) landowner's agreement to allow Grantee to carry out the work, or a portion of the work on the Landowner's property; or
 - 2) Evidence documenting legal easement on all lands where the work will be carried out. Evidence shall include, but is not limited to: (i) documentation of easement and (ii) easement holder's agreement to allow Grantee to carry out the work, or a portion of the work on the servient estate;
- (g) No default as described in Section 6.03 has occurred; and
- (h) Grantee has submitted to Grantor a Fund Request that is in a format acceptable to and approved by Grantor and that is accompanied by all necessary supporting documentation.

SECTION 3 USES OF GRANT

Section 3.01 Eligible Uses of Grant. Grantee's use of the Grant moneys is limited to those expenditures necessary to successfully execute the Project tasks described in Exhibit C and that are in accordance with the allowable costs and budget procedures guidance document provided by the Grantor. Equipment purchases of a durable nature may not be financed with Grant moneys unless expressly authorized by Grantor in writing apart from and in addition to the approved Fund Request.

Section 3.02 Ineligible Uses of Grant. Notwithstanding Section 3.01, Grantee shall not use the Grant moneys to pay principal or interest on any debt; reimburse any person or entity for expenditures made or expenses incurred prior to the Effective Date; make loans or grants to third parties; pay indirect costs that cannot be directly attributable to the Project; or pay internal costs charged to the Project by Grantee or payments made to Related Parties. A Related Party for this purpose includes members of the same controlled group within the meaning of 26 C.F.R. § 1.150-1(e). No more than 10% of the Grant may be used to pay for the administrative costs of Grantee. The aggregate of all disbursements of the Grant shall not exceed the maximum Grant amount set forth in Section 2.01.

Section 3.03 Mis-expended and Unexpended Grant Moneys. Any Grant moneys disbursed to Grantee that are not expended by Grantee in accordance with this Agreement ("Mis-expended Moneys") or are not expended by the earlier of the Expiration Date or the date this Agreement is terminated pursuant to Section 6 of this Agreement ("Unexpended Moneys") shall be returned to Grantor. Grantee shall return all Mis-expended or Unexpended Moneys to Grantor within fifteen (15) days after the earlier of the Expiration Date, the date this Agreement is terminated or Grantor's demand.

SECTION 4 GRANTEE'S REPRESENTATIONS AND WARRANTIES

Grantee represents and warrants to Grantor as follows:

Section 4.01 Existence and Power. Grantee is legally formed and in good standing under Oregon law and has full power and authority to transact the business in which it is engaged and the legal right to execute and deliver this Agreement and incur and perform its obligations hereunder.

Section 4.02 Authority, No Contravention. The making and performance by Grantee of this Agreement (a)

has been duly authorized by all necessary action of Grantee, (b) does not and will not violate any provision of any applicable law, rule, or regulation or order of any court, regulatory commission, board or other administrative body or any provision of Grantee's organization documents and (c) does not and will not result in the breach of, or constitute a default or require any consent under, any other agreement or instrument to which Grantee is a party or by which Grantee or any of its properties are bound or affected.

Section 4.03 Binding Obligation. This Agreement has been duly authorized, executed and delivered on behalf of Grantee and constitutes the legal, valid, and binding obligation of Grantee, enforceable in accordance with its terms.

Section 4.04 Approvals. No authorization, consent, license, or approval of, filing or registration with, or notification to, any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Grantee of this Agreement.

Section 4.05 Required Permits. To the best of Grantee's knowledge the permits and regulatory approvals listed in Exhibit D to this Agreement constitute the permits and regulatory approvals required to construct, complete, and thereafter operate the Project as contemplated in this Agreement. If during the term of this Agreement, Grantee becomes aware of additional permits or regulatory approvals that are needed and not previously identified, Grantee shall promptly notify Grantor of the additional permit(s) or regulatory approval(s) by submitting an addendum to the Grantor setting forth the additional permit(s) or regulatory approval(s).

SECTION 5

GRANTEE'S SUB-AGREEMENTS AND PROCUREMENTS

Section 5.01 Sub-agreements.

- (a) Grantee may enter into agreements with sub-recipients, contractors or sub-contractors ("Sub-agreements") for performance of the Project. Regarding sub-agreements over \$25,000, the Grantee must have available and shall provide upon request documentation describing the Project tasks which the sub-agreement is intended to help complete, the cost of the Sub-agreement, and a description of the selection process by which the Sub-agreement was awarded. All Sub-agreements must be in writing and duly executed by the Grantee and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the Sub-agreements. Grantee agrees to provide the Grantor with a copy of any signed Sub-agreements upon request by the Grantor. Any material breach of a term or condition of Sub-agreements relating to funds covered by this Agreement must be reported by the Grantee to the Grantor within ten (10) days of it being discovered. Use of a Sub-agreement does not relieve the Grantee of its responsibilities under this Agreement.
- (b) Grantee's Sub-agreement(s) shall require the other party to such Sub-agreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the Grantor and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Grantee's Sub-agreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that the Grantor shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Grantor, be indemnified by the other party to Grantee's Sub-agreement(s) from and against any and all Claims.
- (c) Any such indemnification shall also provide that neither Grantee's subrecipient(s), contractor(s) nor subcontractor(s), nor any attorney engaged by Grantee's subrecipient(s), contractor(s) or

subcontractor(s) shall defend any claim in the name of the Grantor or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The Grantor may, at any time at its election, assume its own defense and settlement in the event that it determines that Grantee's subrecipient is prohibited from defending the State, or that Grantee's subrecipient is not adequately defending the Grantor's interests, or that an important governmental principle is at issue or that it is in the best interests of the Grantor to do so. The Grantor reserves all rights to pursue claims it may have against Grantee's subrecipient if the State of Oregon elects to assume its own defense.

Section 5.02 Procurements for Public Entities. If Grantee is a public entity subject to the Oregon Public Contracting code, Grantee shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, including all applicable provisions of the Oregon Public Contracting Code and rules.

Section 5.03 Procurements for Private Entities. If Grantee is a private entity:

- (a) For procurements over \$25,000, Grantee must solicit quotes or bids from at least three sources.
- (b) The Grantee shall retain and provide upon request documentation of the bidding and selection process for all procurements over \$25,000.

Section 5.04 Sole Source Procurement for Private Entities. If Grantee is a private entity:

- (a) Grantee may make the determination that competitive procurement is not feasible if one of the following circumstances exist:
 - (i) Item or service is available only from a single source; or
 - (ii) A public exigency or emergency will not permit a delay resulting from a competitive solicitation or it can be shown unequivocally that desired time frames for delivery must be met or the entire Project will suffer as a direct result of the delay.
- (b) For all sole source procurements Grantee shall provide documentation to the Grantor in writing which shall contain:
 - (i) a brief description of the Project, the amount to be designated for the sole source procurement, and the purpose of the contract;
 - (ii) explanation of why it is necessary to contract in a noncompetitive manner; and,
 - (iii) a declaration that this action is in the "best interest" of the Grantor.

Section 5.05 Compliance with Laws, including Prevailing Wage.

- (a) Grantee shall comply with state prevailing wage law as set forth in ORS 279C.800 through 279C.870, and the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) (collectively, state "PWR"). This includes but is not limited to imposing an obligation that when PWR applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage for workers in each trade or occupation in each locality as determined by the Commissioner of the Bureau of Labor and Industries ("BOLI") under ORS 279C.815.
- (b) When the federal Davis-Bacon Act applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage as determined by the United States Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 3141 et seq.).

- (c) Notwithstanding (1) and (2) above, when both PWR and the federal Davis-Bacon Act apply to the Project, contractors and subcontractors on the Project must pay a rate of wage that meets or exceeds the greater of the rate provided in (3)(a) or (3)(b) above.
- (d) When PWR applies, Grantee and its contractors and subcontractors shall not contract with any contractor on BOLI's current List of Contractors Ineligible to Receive Public Works Contracts.
- (e) When PWR applies, Grantee shall be responsible for both providing the notice to the BOLI Commissioner required by ORS 279C.835 and the payment of any prevailing wage fee(s) required under ORS 279C.825 and BOLI's rules, including OAR 839-025-0200 to OAR 839-025-0230. For avoidance of any doubt, Grantee contractually agrees to pay applicable prevailing wage fees for the Project rather than OHCS, the public agency providing Financing Proceeds under this Contract.
- (f) When PWR applies, and before starting work, Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by ORS 279C.836 and OAR 839-025-0015, unless otherwise exempt under those provisions. The Contractor shall also include in every subcontract a provision requiring any subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the subcontractor has filed a public works bond before permitting the subcontractor to start Work.
- (g) Pursuant to ORS 279C.817, Grantee and any contractors or subcontractors may request that the BOLI Commissioner make a determination about whether the Project is a public works on which payment of the prevailing rate of wage is required under ORS 279C.840 (i.e. whether PWR applies).

SECTION 6 TERMINATION AND DEFAULT

Section 6.01 Mutual Termination. This Agreement may be terminated by mutual written consent of both Parties.

Section 6.02 Termination by Grantor. Grantor may terminate this Agreement, for any reason, upon 30 days advance written notice to Grantee. In addition, Grantor may terminate this Agreement effective immediately upon written notice to Grantee, or effective on such later date as may be established by Grantor in such notice, under any of the following circumstances:

- (a) Grantor fails to receive sufficient appropriations or other expenditure authorization to allow Grantor, in the reasonable exercise of its administrative discretion, to continue making payments under this Agreement; or,
- (b) The Grantor does not have sufficient funds to continue making payments under this Agreement; or,
- (c) There is a change in federal or state laws, rules, regulations or guidelines so that the Project funded by this Agreement is no longer eligible for funding; or,
- (d) In accordance with Section 6.04.

Section 6.03 Default. Grantee shall be in default under this Agreement upon the occurrence of any of the following events:

- (a) Grantee fails to perform, observe or discharge any of its covenants, agreements or obligations contained herein or in any exhibit attached hereto; or

- (b) Any representation, warranty or statement made by Grantee herein or in any documents or reports relied upon by Grantor to measure progress on the activities funded by the Grant, the expenditure of Grant moneys or the performance by Grantee is untrue in any material respect when made; or
- (c) Grantee (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of all of its property, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of its creditors, (iv) commences a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (v) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the federal Bankruptcy Code (as now or hereafter in effect), or (vii) takes any action for the purpose of effecting any of the foregoing; or
- (d) A proceeding or case is commenced, without the application or consent of Grantee, in any court of competent jurisdiction, seeking (i) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Grantee, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of Grantee or of all or any substantial part of its assets, or (iii) similar relief in respect to Grantee under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty (60) consecutive days, or an order for relief against Grantee is entered in an involuntary case under the federal Bankruptcy Code (as now or hereafter in effect).

Section 6.04 Remedies Upon Default. If Grantee's default is not cured within fifteen (15) days of written notice thereof to Grantee from Grantor or such longer period as Grantor may authorize in its sole discretion, Grantor may pursue any remedies available under this Agreement, at law or in equity. Such remedies include, but are not limited to, termination of this Agreement, return of all or a portion of the Grant moneys, payment of interest earned on the Grant moneys, reallocation of funds allocated to the Project but not used, and declaration of ineligibility for the receipt of future funding from the Grantor.

SECTION 7 MISCELLANEOUS

Section 7.01 No Implied Waiver, Cumulative Remedies. The failure of Grantor to exercise, and any delay in exercising, any right, power, or privilege under this Agreement shall not operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

Section 7.02 Choice of Law; Designation of Forum; Federal Forum.

- (a) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.
- (b) Any Party bringing a legal action or proceeding against any other Party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each Party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

- (c) Notwithstanding Section 7.02(b), if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This Section is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

Section 7.03 Notices. Except as otherwise expressly provided in this Agreement, any notices or demands required or permitted to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to Grantee or Grantor at the address or number set forth on page 2 of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this section. Any such notice or demand so addressed and mailed shall be deemed to be given five (5) days after mailing. Any notice or demand delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. Any notice or demand by personal delivery shall be deemed to be given when actually delivered.

Section 7.04 Amendments. This Agreement may not be altered, modified, supplemented, extended or amended in any manner except by written instrument signed by both Parties. No term of this Agreement may be waived unless such waiver is agreed to in writing by the Party against whom such waiver is sought to be enforced.

Section 7.05 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Grantor, Grantee, and their respective successors and assigns, except that Grantee may not assign or transfer its rights or obligations hereunder or any interest herein without the prior consent in writing of Grantor.

Section 7.06 Entire Agreement. This Agreement constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

Section 7.07 Contribution.

- (a) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third-Party Tort Claim") against a party to this Agreement (the "Notified Party") with respect to which the other party may have liability, the Notified Party must promptly notify the other party in writing and deliver a copy of the claim, process, and all legal pleadings related to the Third-Party Tort Claim. Either party is entitled to participate in the defense of a Third-Party Tort Claim, and to defend a Third-Party Tort Claim with counsel of its own choosing. The foregoing provisions are conditions precedent for either party's liability to the other in regard to the Third-Party Claim.

If the parties are jointly liable (or would be if joined in the Third-Party Tort Claim), the parties shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable in such proportion as is appropriate to reflect their respective relative fault. The relative fault of the parties shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Each party's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if that party had sole liability in the proceeding. This Section shall survive termination of this Agreement.

- (b) Recipient shall take all reasonable steps to require its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend (subject to ORS chapter 180), save and hold harmless the State of Oregon and its officers, employees and agents (“Indemnatee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys’ fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient’s contractor or any of the officers, agents, employees or subcontractors of the contractor (“Contractor Tort Claims”). It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Contractor Tort Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Contractor Tort Claims. This Section shall survive termination of this Agreement.
- (c) Except for Third-Party Tort Claims and Contractor Tort Claims as provided above, to the extent authorized by law, Recipient shall defend, indemnify, save and hold harmless and release the State, Agency, and their officers, employees and agents from and against any and all claims, demands, suits, actions, proceedings, losses, damages, liability and court awards including but not limited to costs, expenses, and reasonable attorneys’ fees incurred (collectively, “Non-Tort Claims”), related to any actual or alleged act or omission by Recipient, or its officers, employees, contractors, or agents in connection with this Agreement, and the Project, including without limitation, any expenses incurred or amounts paid in connection with an inquiry, investigation, audit or similar proceeding by the Internal Revenue Service, Treasury and any other federal, state, governmental or quasi-governmental body with regulatory jurisdiction arising from the Project or the actions or omissions of Grantee, or its officers, employees, contractors, or agents.
- (d) Notwithstanding the foregoing, neither Recipient nor any attorney engaged by Recipient may defend any Non-Tort Claim in the name of the State of Oregon, nor purport to act as legal representative for the State of Oregon, without first receiving from the Oregon Attorney General in a form and manner determined appropriate by the Oregon Attorney General, authority to act as legal counsel for the State of Oregon, nor may Grantee settle any Non-Tort Claim on behalf of the State of Oregon without the approval of the Oregon Attorney General. If the State of Oregon assumes its own defense, Recipient will be liable for the attorney fees of the State of Oregon, including but not limited to any fees charged by the Oregon Department of Justice. The provisions of this section are not to be construed as a waiver by the State of Oregon, or Agency of any immunity, defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.

Section 7.08 Time is of the Essence. Grantee agrees that time is of the essence under this Agreement.

Section 7.09 Survival. All provisions of this Agreement set forth in the following sections and all provisions of this Agreement that by their terms are intended to survive shall survive the expiration or termination of this Agreement: Section 3.03, Mis-expended and Unexpended Grant Moneys; Section 6.04, Remedies Upon Default; Section 7, MISCELLANEOUS; and Exhibit A sections 3. (Final Report), 6. (Records and Inspection), 7. (Operations and Maintenance of the Project) and 8. (Publicity).

Section 7.10 Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

Section 7.11 Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall

not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

Section 7.12 Relationship of Parties. The Parties agree and acknowledge that their relationship is that of independent contracting parties, and neither Party hereto shall be deemed an agent, partner, joint venturer or related entity of the other by reason of this Agreement.

Section 7.13 Headings. The section headings in this Agreement are included for convenience only, they do not give full notice of the terms of any portion of this Agreement and are not relevant to the interpretation of any provision of this Agreement.

Section 7.14 No Third Party Beneficiaries. Grantor and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons.

Section 7.15 Duplicate Payment. Grantee shall not receive duplicate payments from another entity for expenses invoiced to the Grantor.

Section 7.16 False Claims Act. Grantee will refer to the Grantor any credible evidence that a principal, employee, agent, contractor or other person has submitted a false claim under the False Claims Act (31 USC 3729-3733; ORS 180.750-180.785) or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving funds provided under this Grant Agreement.

Section 7.17 Cooperation. The Grantor and Grantee acknowledge that as the Project progresses, aspects of the Project captured in the Exhibits may need to be adjusted and refined through the amendment process, and that the ultimate success of this Project requires the cooperation of both Parties. Grantor and Grantee both agree to use good faith efforts and their best professional judgment to resolve any issues that may arise during the course of the Project.

Section 7.18 Dispute Resolution. The Grantor and Grantee shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Grantor and Grantee may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, have full power and authority to bind their respective Party and agree to be bound by the terms and conditions of this Agreement.

GRANTEE

City of Tualatin, by and through its Governing Body

By _____

Name: Sherilyn Lombos

Title: City Manager

Date _____

By _____

Name:

Title:

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

(If required in local process)

By _____

Grantee's Legal Counsel

Date _____

Grantee Contact:

City of Tualatin

Attn: Nic Westendorf

10699 SW Herman Road

Tualatin, OR 97062

Phone: (503) 691-3673

Email: nwestendorf@tualatin.gov

GRANTOR



STATE OF OREGON, by and through its
Water Resources Department

By _____

Name: Lisa Snyder

Title: Administrative Services Administrator

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

(For funding over \$250,000)

By: Zoey Kohn via email

Assistant Attorney General

Date 12/8/2025

Grantor Contact:

Oregon Water Resources Department

Attn: Louisa Mariki

725 Summer St NE, Suite A

Salem, OR 97301-1266

(503) 979-9160

OWRD.Grants@water.oregon.gov

EXHIBIT A

CONDITIONS OF AGREEMENT

The following conditions apply to the implementation of this Agreement:

1. **Permits and Regulatory Approvals.** Prior to disbursement of any Grant moneys for any activities requiring a permit or regulatory approval, the Grantee must obtain all permits and regulatory approvals from local, state, or federal agencies or governing bodies necessary to perform its obligations under this Agreement and provide a copy to the Grantor. Satisfaction of the condition related to permits and regulatory approvals precedent to disbursements is set forth in Section 2.05(e).
2. **Semi-Annual Progress Reports.** Between the Effective Date and the Expiration Date, the Grantee shall provide the Grantor with a progress report two times per calendar year (due January 31 and July 31). The Grantee will use the forms provided by the Grantor, which will include information regarding the expenditure of the Grant moneys, compliance with the terms of this Agreement, progress toward completion of the Project as documented in the Exhibits, and a narrative on the activities completed as part of the Project.
3. **Final Report.** No later than July 15, 2027, the Grantee shall file with the Grantor a signed Final Report. The Final Report must be completed on a form provided by the Grantor that will require a summary of the Project as completed.
4. **Release of Reports.** All reports that the Grantor determines to be final and complete will be made available to the public.
5. **Project Inspection.** During implementation of the Project and any time prior to Grantor approval of the Final Report, the Grantee shall permit the Grantor to inspect, at any reasonable time, the property, both real and personal, all work done, labor performed and materials furnished in connection with the activities financed with Grant moneys.
6. **Records and Inspection.** Grantee shall keep proper books of account and records on all activities associated with the Grant including, but not limited to, books of account and records on expenditure of the Grant moneys and on the activities financed with the Grant moneys. Grantee will maintain these books of account and records in accordance with generally accepted accounting principles and shall retain the books of account and records until the latest of (i) six years after the Expiration Date; or (ii) the date that all disputes, if any, arising under this Agreement have been resolved. Grantee will permit Grantor, the Secretary of State of the State of Oregon, or their duly authorized representatives to inspect and to review and make excerpts, transcripts and copies of its books of account and records with respect to the receipt and disbursement of funds received from Grantor, including, without limitation, its records regarding receipts, disbursements, contracts, investment of Grant moneys, if any, and any other matters related to the use of Grant moneys or Project work. Access to these books of account and records is not limited to the required retention period. The authorized representatives shall have access to these books of account and records at any reasonable time for as long as the records are maintained.
7. **Operation and Maintenance of the Project.** Until ten (10) years after the Expiration Date, Grantee shall monitor, evaluate, operate, and maintain the Project, or cause the Project to be operated and maintained, in good repair and operating condition so as to preserve the long-term

public benefit of the Project, including making all necessary and proper repairs, replacements, additions and improvements to the Project.

8. **Publicity.** Grantee shall make every effort to acknowledge and publicize the State or Oregon's (Oregon Water Resource Department) participation and assistance with the project. Upon completion of the Project, Grantee shall post a permanent sign at the Project site or other location approved by Grantor, acknowledging the participation of the State of Oregon (Oregon Water Resources Department) in the Project. Grantee shall maintain the sign throughout the life of the project. Signage content must be approved by Grantor to be eligible for reimbursement as an eligible Project cost.
9. **Cultural Material.** If any cultural material is discovered during Project activities, all work should cease immediately (ORS 97.745 and ORS 97.750) until a professional archaeologist can assess the discovery, and Grantee shall immediately notify the Oregon State Police, the Water Resources Department, the Legislative Commission on Indian Services, the appropriate Tribe(s), and the State's Historic Preservation Office (SHPO). Additionally, in the case of cultural material discovery, Grantee shall prepare a report of the Project outlining the results of the archaeological monitoring and submit its report to SHPO for inclusion in SHPO's resource library and GIS database.
10. **Taxes and Assessments; Utilities.** Grantee shall pay, or cause to be paid, all taxes, utility charges and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project. If any governmental charges may lawfully be paid in installments over a period of years, the Grantee may pay, or cause to be paid, those charges in installments. The Grantee may contest, or permit to be contested, in good faith the validity or application of any tax, utility charge or governmental charge in any reasonable manner, so long as the contest does not subject any portion of the Project to loss or forfeiture.
11. **Certification of Compliance with Laws.** Grantee hereby certifies that it has complied, and agrees that it shall comply, with all applicable federal, state, and local laws, regulations, executive orders and ordinances related to expenditure of the Grant moneys and the activities financed with the Grant moneys. Without limiting the generality of the foregoing, Grantee expressly agrees to comply with (a) Title VI of the Civil Rights Act of 1964, (b) Section V of the Rehabilitation Act of 1973, (c) the Americans with Disabilities Act of 1990 and ORS 659A.142, (d) all regulations and administrative rules established pursuant to the foregoing laws, and (e) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
12. **Work Products and Intellectual Property.** Any work products developed using Grant moneys will remain in the public domain and cannot be used for proprietary purposes.
13. **Engineering Reviews.** If requested by the Grantor, the Grantee shall provide any engineering or other Project documentation for the review and approval by the Grantor prior to Project implementation.

EXHIBIT B
The Grant Budget

The Grant Budget is as follows:

Budget Categories	Approved Budget
Staff Salary/Benefits	\$0
Contractual/Consulting	\$1,750,000
Supplies	\$0
Materials	\$0
Travel	\$0
Equipment	\$0
Other:	\$0
Subtotal of Grant Funds	\$,1750,000
Match Funding – Expenditures from sources other than those managed by the Grantor	\$0
Grand Total	\$,1750,000

EXHIBIT C

Project Description

The Grantee shall install seismic valving infrastructure at six of the City's water reservoirs. The grant will be used for design work, asset/infrastructure costs, and construction costs to help ensure that potable water will remain in the City's water distribution system in the event of a large-scale earthquake, that can damage pipes and cause loss in pressure and drainage of water from the system. Grant funds shall only be used for the costs of contracted work necessary to accomplish the following tasks in relation to the Tualatin Water Reservoir Seismic Valve installation as detailed as follows:

Project Tasks

Task 1. Project Scoping

- Task Description – *This task includes:*
 - Collaborate with a design firm (selected from the City's Qualified Pool List) to scope the seismic valve project based on available budget, operational needs, and desired outcomes.
 - Determine the configuration of the seismic valve system, including:
 - Manufacturer and model selection
 - Valve style and connection to the reservoir
 - Backup power requirements
 - Use of localized or regional seismic alert systems
 - Integration with the City's SCADA system
 - Conduct site visits with the design firm to assess existing conditions and inform system design.

Task 2. Project Design

- Task Description – *This task includes:*
 - Develop engineered plans for seismic valve setups at each reservoir, based on configuration decisions completed during Task 1 (scoping phase), following a design 30% – 60% – 90% design trajectory with incremental adjustments made throughout the process based on City feedback and other discoveries.
 - Design the configuration for seismic valve integration with the City's SCADA system to control the valve operation in the event of a seismic event.
 - Determine and set up a regional alert system (e.g., ShakeAlert) if the City elects to use one. Incorporate the setup and configuration planning into the design process.

Task 3. Asset/Equipment Purchase and Installation

- Task Description – *This task includes:*
 - Purchase equipment and materials required for seismic valve installation after finalizing specifications.
 - Prepare and issue a request for bids to install seismic valves and associated infrastructure, following the State of Oregon's public contracting requirements.
 - Select a contractor through the full solicitation process and develop a construction schedule.

- Implement installation site by site to optimize efficiency and mobilization. Construction will be scheduled during low-demand months (winter to early spring) to minimize operational risks associated with reservoir shutdowns or flow disruptions.

Task 4. *Startup and Commissioning*

- Task Description – *This task includes:*
 - Initiate system startup following installation of seismic valves and actuator equipment. This involves testing equipment, integration with the City’s SCADA system, and configuration with the Shake Alert regional detection system, if selected.

EXHIBIT D

PERMITS AND REGULATORY APPROVALS

Section 2.05(e) of this Agreement outlines requirements for disbursement of Grant moneys related to permits and regulatory approvals. Exhibit A Conditions of Agreement may contain additional conditions with respect to permitting, licensing, and regulatory approvals and the disbursement of Grant moneys.

Before the disbursement of Grant moneys for activities requiring a permit or regulatory approval, or for activities dependent on portions of the Project for which a permit or regulatory approval has yet to be issued, the Grantee must submit to the Grantor copies of all required permits or regulatory approvals or submit written evidence acceptable to the Grantor that permits or regulatory approvals are not required.

Grantor may disburse Grant moneys for Project tasks that do not require a permit or regulatory approval. To be considered for release, the Project task(s) for which no permits or regulatory approvals are required shall not be dependent on the portion of the Project for which a permit, license or regulatory approval has yet to be issued.

The following list of permits and regulatory approvals is not exhaustive. Grantee understands and agrees that it is Grantee's responsibility to determine which permits and regulatory approvals are required for the Project.

The following lists the Project activities that require permits or regulatory approvals and the associated permit(s)/regulatory approvals(s). By its signature on this Agreement, the Grantee certifies to Grantor that the following is a complete and accurate list of the Project components requiring permits or licenses and the associated required permits or licenses.

Project Task Requiring Permit/Regulatory Approval	Permit/Regulatory Approval Name and Entity Issuing
Task 3. Asset/Equipment Purchase and Installation	Electrical Permits – Washington County

Grantee Signature

Date