



CITY COUNCIL MEETING MINUTES

Vancouver City Hall – Council Chambers – 415 W. 6th Street
PO Box 1995 – Vancouver, Washington 98668-1995

www.cityofvancouver.us

Anne McEnerny-Ogle, Mayor

Bart Hansen · Bill Turlay · Alishia Topper · Ty Stober · Linda Glover · Laurie Lebowsky

June 11, 2018

WORKSHOPS (City Council Chambers)

Councilmembers Lebowsky and Hansen were absent from workshops.

4:00-5:00 p.m. COMPREHENSIVE SIDEWALK PROGRAM UPDATE

Council met with Ryan Lopossa, Streets & Transportation Manager, and Ryan Miles, Operations Program Manager.

Summary

Staff provided Council with an overview of the City's comprehensive sidewalk program and an update on current and future initiatives within the program. (Ryan Miles, 487-7708)

5:00-5:30 p.m. AMENDMENT TO WATERFRONT DEVELOPMENT AGREEMENT

Council met with Chad Eiken, Community & Economic Development Director, and Julie Hannon, Parks & Recreation Director.

Summary

Staff provided Council with an overview of the proposed third amendment to the development agreement for the Vancouver Waterfront development project. (Chad Eiken, 487-7882; Julie Hannon, 487-8309)

Mayor McEnerny-Ogle announced Council would break for dinner until 6:00 p.m. and then enter into an executive session from 6:00-6:30 p.m. to discuss potential litigation.

COUNCIL DINNER/ADMINISTRATIVE UPDATES

Birch Conference Room – 5:30-6:00 p.m.

6:00-6:30 p.m. EXECUTIVE SESSION RE: POTENTIAL LITIGATION

COUNCIL CONSENT AGENDA MEETING (City Council Chambers)

PLEDGE OF ALLEGIANCE

CALL TO ORDER AND ROLL CALL

The consent agenda meeting of the Vancouver City Council was called to order at 6:30 p.m. by Mayor Anne McEnerny-Ogle in the Council Chambers of City Hall, 415 W. 6th Street, Vancouver, Washington.

Present: Councilmembers Glover, Stober, Topper, Turley, Mayor McEnerny-Ogle

Absent: Councilmembers Lebowsky, Hansen

PROCLAMATION: FLAG DAY 2018

Mayor McEnerny-Ogle read and presented a proclamation to Amy Mintoye, Director of Marketing & Communications for The Historic Trust, Bryce Davidson, representing Davidson Insurance, and Jenny Thompson, 2018 Marshall Leadership Award Winner, proclaiming June 14, 2018, as Flag Day 2018.

SPECIAL PRESENTATION: EMPLOYER SUPPORT FREEDOM AWARD HONORS CERTIFICATE

Joel Scott, representing the Washington State Employer Support of the Guard and Reserve, presented the Council and Vancouver Fire Chief Joe Molina with an Employer Support Freedom Award Honors Certificate.

CITIZEN COMMUNICATION (ITEMS 1-6)

Mayor McEnerny-Ogle opened Citizen Communication and, receiving no testimony, closed Citizen Communication.

CONSENT AGENDA (ITEMS 1-6)

Motion by Councilmember Stober, seconded by Councilmember Turley, and carried unanimously to approve the Consent Agenda.

1. ORCHARD AREA TRAFFIC IMPACT FEE (TIF) PROJECTS – NE VANCOUVER MALL DRIVE EXTENSION AND NE 82ND AVENUE IMPROVEMENTS, CONSTRUCTION ACCEPTANCE AND RELEASE OF RETAINAGE
(Staff Report 083-18)

Summary

This project improved NE Vancouver Mall Drive from NE 72nd Avenue to NE 66th Avenue. The work included:

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- *Extending the roadway west of NE Andresen Road to NE 66th Avenue. The new street section included bike lanes, ADA-compliant sidewalks and curb ramps, street lights, utilities, asphalt concrete pavement, and landscaping;*
- *Widening the road to add a dedicated right-turn lane westbound onto NE Andresen Road;*
- *Installing ADA-compliant sidewalk and curb ramps between NE 72nd Avenue and NE Andresen Road;*
- *Improving the existing traffic signal system at the NE Andresen Road and NE Vancouver Mall Drive intersection.*

In addition, ADA-compliant sidewalk was installed on NE 82nd Avenue between NE 56th Street and NE 58th Street to close the missing segment of the sidewalk and promote pedestrian safety and walkability. Tapani, Inc. of Battle Ground, Washington, has satisfactorily completed the subject improvements in accordance with the plans and specifications.

The original construction contract bid amount was \$1,583,984.97. Field adjustments and contract change orders during construction increased the contract amount to \$1,691,437.16, a 6.8% increase. The major changes were due to over excavation and stabilization of a large area of soft ground encountered on site, relocation of an existing street light service cabinet missed in the contract plans, and an increase in the flagging and traffic control quantities necessary to safely perform the work.

An apprenticeship utilization goal of 4% was required for this project. The contractor exceeded the required goal with an apprenticeship utilization of 4.5% for the project.

Motion accepted construction as complete in accordance with contract plans and specifications and authorized release of retainage in the amount of \$84,005.20 to Tapani, Inc. of Battle Ground, Washington, subject to receipt of all documentation required by law. (Steve Lee, Senior Civil Engineer, 487-7752)

2. 2019-2023 PUBLIC DEFENSE SERVICES CONTRACT WITH VANCOUVER DEFENDERS

(Staff Report 084-18)

Summary

The City is constitutionally mandated to provide public defense counsel to indigent persons entitled to representation as authorized by law. The City currently provides these services through contracts with private attorneys. Since 2007, the City's primary contract for legal and other professional public defense services has been with Jeffrey D. Barrar (dba Vancouver Defenders). The City also contracts with 2-3 additional firms to handle cases where the primary contractor, Vancouver Defenders, has a conflict of interest.

As of January 1, 2015, the Washington State Supreme Court imposed mandatory caseload standards for public defenders that limit each attorney to no more than 400 cases per year. The City's annual caseload of 3,800-4,200 cases requires 10-12 attorneys plus support staff and a full-time investigator, as recommended by the Washington State Bar Association, to adequately meet those standards.

Vancouver Defenders has a successful track record of providing public defense services for the City of Vancouver and is the only local firm that has sufficient staff and experience to provide the level of service required. Therefore the City Council is being asked to approve a new, five-year agreement with Jeffrey D. Barrar, P.S. (dba Vancouver Defenders).

Motion authorized the City Manager or his designee to sign a contract with Jeffrey D. Barrar to provide public defense services to indigent clients in the City of Vancouver for 2019-2023. *(Jeanette (Jan) Bader, Program & Policy Development Manager, 487-8606)*

3. FEDERAL GOVERNMENTAL RELATIONS CONTRACT WITH CFM STRATEGIC COMMUNICATIONS
(Staff Report 085-18)

Summary

In 2008, the City determined that based on the increasing complexity of the Vancouver's federal legislative agenda, professional government relations services in Washington, D.C. was advisable. Through a Request for Proposal process, the City selected Conkling, Fiskum & McCormick (now CFM Strategic Communications), an Oregon-based firm with a Washington DC office, to provide federal legislative services.

CFM has a very successful track record of assisting in advancing the City's legislative initiatives and securing federal funding. Based on the firm's familiarity with the City's issues and the quality of the services they have provided, it is recommended that the City Council approve a new five-year agreement with CFM for federal government relations services

Motion authorized the City Manager or designee to sign a professional services agreement with CFM Strategic Communications for federal governmental relations services from July 1, 2018, through June 30, 2023. *(Jeanette (Jan) Bader, Program & Policy Development Manager, 487-8606)*

4. SUBLEASE BETWEEN KAFIEX ROASTERS AND THE CITY OF VANCOUVER FOR RETAIL SPACE LOCATED AT 505 W. 8TH STREET (ESTHER SHORT COMMONS)
(Staff Report 086-18)

Summary

The City of Vancouver is currently the tenant under a long-term lease for approximately 8,451 square feet of retail space located at 505 W. 8th Street. In 2007 the space was vacated by the indoor Vancouver Farmer's Market and the City began subleasing the space. Umpqua Bank had been in this location previously; however, the decision was recently made to close this branch and the sublease was terminated and the space vacated February 28, 2018. The City utilized a commercial real estate broker to advertise the space through direct mailings, a multiple listing service and targeted business outreach.

Kafiex Roasters, represented by Fuller Group, approached the City and negotiations commenced. It is proposed to enter into a sublease agreement with Kafiex Roasters for approximately 1,508 square feet of retail space for a five-year term with two five-year options to extend. The City advertised the space using a baseline rate equivalent to \$24 per square foot, which has been established using current market

comparisons of similar retail space but did not provide an allowance for improvements. Kafiex Roasters will fund and manage their improvements at an estimated value of \$50,000. In lieu of an improvement allowance, it is proposed to reduce the base rent accordingly. Rent will be \$22.00 per square foot plus leasehold tax in months 1-24 and will escalate 3% annually thereafter throughout term of sublease.

Motion approved the Sublease Agreement between City of Vancouver and Kafiex Roasters for retail space located at 505 W. 8th Street and authorized the City Manager or his designee to execute the sublease document. *(Linda Carlson, Property Management Specialist, 487-8423)*

5. APPROVAL OF LEASES OF AQUATIC LANDS FROM WASHINGTON DEPARTMENT OF NATURAL RESOURCES (DNR) AND SUBLEASE OF SEATING AREA TO GRAMOR
(Staff Report 087-18)

Summary

The City and DNR have had a lease of the aquatic lands fronting the Waterfront development site for years. That lease is being replaced by the lease accompanying this staff report. The new lease extends the term of the lease for thirty years and allows use of the aquatic lands for public recreations and a limited defined amount of outdoor restaurant seating. There is a modest amount of rent charged for the seating (approximately \$4,000 per year).

The sublease allows the developer of the restaurant on Block 9 to utilize a small amount of the aquatic lands (approximately 1,000 square feet) for outdoor seating. The rent paid to DNR is recovered by the City through the sublease.

Motion approved the aquatic lands lease between the City and DNR and the sublease between the City and Gramor Investments, LLC, and authorized the City Manager or his designee to execute the same. *(Linda Carlson, Property Management Specialist, 487-8423)*

6. APPROVAL OF CLAIM VOUCHERS

Motion approved claim vouchers for June 11, 2018, in the amount of \$13,329,073.23.

CITIZEN FORUM

Mayor McEnerny-Ogle opened the Citizen Forum and received the following testimony:

- Matt Buttrell, Vancouver, expressed concerns about the lack of continuity of bike lanes along 33rd Street from Grand to Columbia.

There being no further testimony, Mayor McEnerny-Ogle closed the Citizen Forum.

ADJOURNMENT

6:47 P.M.

Anne McEnery-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

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June 18, 2018

WORKSHOPS (City Council Chambers)

4:00-5:00 p.m. VANCOUVER STRONG UPDATE – INTERIM RECOMMENDATION

Council met with Tim Schauer, Vancouver Strong Executive Sponsors Council (ESC) Co-Chair, and Jennifer Rhoads, ESC Member; Jeanette (Jan) Bader, Program and Policy Development Manager, and Natasha Ramras, Chief Financial Officer

Summary

City staff and members of the Vancouver Strong ESC provided Council with an updated on the Vancouver Strong initiative, including an interim recommendation to replace funding for the Vancouver Police Department. (Jan Bader, 487-8606)

5:00-5:30 p.m. WORKFORCE SOUTHWEST WASHINGTON YOUTH EMPLOYMENT CENTER

Council met with Miriam Martin, Youth Initiatives Manager, Workforce Southwest Washington; Melissa Boles, Employer Services Manager, Workforce Southwest Washington.

Summary

Workforce Southwest Washington staff provided Council with an overview of the agency's new youth employment center.

5:30-6:00 p.m. PORTLAND METRO AREA VALUE PRICING FEASIBILITY ANALYSIS UPDATE

Council met with Rebecca Kennedy, Long Range Planning Manager.

Summary

Staff provided Council with an update on the Portland Metro Area Value Pricing Feasibility study and proposed comments to provide the Policy Advisory Committee regarding the draft proposal. Due to last-minute delivery of an updated draft proposal, Council requested Ms. Kennedy provide further analysis and recommendations to the Council during the Regular Council Meeting under Communications. (Rebecca Kennedy, 487-7896)

COUNCIL DINNER/ADMINISTRATIVE UPDATES

Birch Conference Room – 6:00-7:00 p.m.

COUNCIL CONSENT/REGULAR MEETING (City Council Chambers)

PLEDGE OF ALLEGIANCE

CALL TO ORDER AND ROLL CALL

The regular meeting of the Vancouver City Council was called to order at 7 p.m. by Mayor Anne McEnerny-Ogle in the Council Chambers of City Hall, 415 W. 6th Street, Vancouver, Washington.

Present: Councilmembers Lebowsky, Glover, Stober, Turlay, Hansen, Mayor McEnerny-Ogle

Absent: Councilmember Topper

Motion by Councilmember Stober, seconded by Councilmember Hansen, and carried unanimously to excuse Councilmember Topper.

APPROVAL OF MINUTES OF JUNE 4, 2018

Motion by Councilmember Glover, seconded by Councilmember Lebowsky, and carried unanimously to approve the meeting minutes of June 4, 2018. Councilmember Hansen abstained.

CITIZEN COMMUNICATION (ITEMS 1-5)

Mayor McEnerny-Ogle opened Citizen Communication and, receiving no testimony, closed Citizen Communication.

CONSENT AGENDA (ITEMS 1-5)

Motion by Councilmember Hansen, seconded by Councilmember Glover, and carried unanimously to approve the Consent Agenda.

1. APPROVAL OF PURCHASE AUTHORITY FOR NORTHEND TRUCK EQUIPMENT INC.

(Staff Report 088-18)

Summary

Currently, the City purchases hooklifts, dump body's and other auxiliary equipment utilizing the City of Seattle Contract. The 2018 purchases are expected to exceed the \$300,000 threshold requiring approval of Council.

This contract awarded to Northend Truck Equipment Inc. includes many of the City's uniform hooklifts, dump bodies and auxiliary equipment for heavy duty trucks. In an ongoing effort to standardize and streamline the City's fleet, staff is requesting the ability to purchase from this contract and take advantage of the contract pricing.

Presently, the city's fleet has seven (7) Lifthook truck chassis on order, of which six (6) are replacements for trucks that have met or exceeded their life and one (1) newly authorized chassis. The city also has eight (8) 10-yard dump trucks, of which one (1) will be replaced in 2018 and four (4) in 2019-20 biennium.

Equipment Services is requesting that Council approve the increased spending at Northend Truck Equipment up to a \$1,000,000 threshold against this contract to build and install lifthook and dump truck bodies.

Motion approved purchases from the City of Seattle Contract #0000003205 with Northend Truck Equipment Inc. based in Marysville, WA, in an amount not to exceed \$1,000,000 over the life of the contract. *(Tim Buck, Operations Manager, 487-8261; Dan Zenger, Equipment Services Superintendent, 487-8205)*

2. PROPOSED SETTLEMENT OF A TORT CLAIM BROUGHT BY SUSAN RYLAND (Staff Report 089-18)

Summary

During daylight hours on February 18, 2017, former Vancouver Police Department Officer Gregory Zimmerman was operating a City- owned 2015 Ford Explorer when he attempted to make a left-hand turn from W. Evergreen Blvd. onto Columbia Street. In the process of his turn, Officer Zimmerman struck two pedestrians in the crosswalk, one of which was Ms. Ryland. As a result of the collision, Ms. Ryland underwent extensive medical treatment of more than \$30,000 in expenses. Following the conclusion of Ms. Ryland's treatment, City staff and Ms. Ryland's attorney began settlement negotiations beginning with an opening demand of \$130,000. A tentative agreement was reached, subject to City Council approval, to resolve the claim fully for \$87,500, which would encompass payment for Ms. Ryland's medical expenses.

Motion authorized the City Manager or his designee and the City Attorney to execute any and all documents necessary to complete the settlement with Susan Ryland in the amount of \$87,500.00. *(Dan Lloyd, Assistant City Attorney, 487-8500)*

3. NOTICE OF WITHDRAWAL FROM THE PORTLAND REGJIN SYSTEM (Staff Report 090-18)

Summary

The current police reporting/records management system, known as the Regional Joint Information Network (RegJIN) utilized by the Vancouver Police, has not met performance expectations.

The majority of the original agencies have left the RegJIN consortium, resulting in significant projected cost increases to be borne by the remaining partners, and severely limited information sharing capabilities among Portland metropolitan law enforcement agencies. Even the City of Portland, which serves as host agency for the RegJIN system, has begun the process to retain a consultant to explore alternative systems. This has created significant doubt as to the future viability of the system.

The Vancouver Police Department has identified the need for the replacement of RegJIN by conducting an internal needs assessment and selecting an alternative police reporting records management system through a competitive request for proposal (RFP) process. Efficiency studies from other law enforcement agencies utilizing the current records management system that have selected a replacement system indicate significant gains in efficiencies in labor and time associated with police report writing, report processing, and utilizing statistical data for crime analytics derived from police reports. PRI Management Group has been retained to provide project management services for the Police Records Management System Replacement Project. PRI and the Vancouver Police Department have accomplished a gap analysis of the current RegJIN system. The RMS Replacement Project Executive Steering Committee has determined that there is a business necessity to develop and publish an RFP for the RMS Replacement.

The Portland RegJIN Interlocal Agreement requires a six month notice of withdrawal from the RegJIN system to be provided by June 30, 2018, with an effective withdrawal date of January 1, 2019, or a negotiated date thereafter.

Motion approved the Notice of Withdrawal from the Portland Police Bureau RegJIN System and authorized the City Manager or designee to execute the same. *(Chris Sutter, Assistant Police Chief, 487-7421)*

4. APPOINTMENT TO THE CLARK COUNTY HISTORIC PRESERVATION COMMISSION

Motion appointed Andrew Gregg to the Historic Preservation Commission to a mid-term appoint, term beginning immediately, and expiring July 1, 2020.

5. APPROVAL OF CLAIM VOUCHERS

Motion approved claim vouchers for June 18, 2018, in the amount of \$6,542,794.74.

PUBLIC HEARINGS (ITEMS 6-8)

6. 2019-2024 TRANSPORTATION IMPROVEMENT PROGRAM (Staff Report 091-18)

Chris Malone, Public Works Finance & Asset Management Manager, provided staff comments.

A RESOLUTION adopting the City of Vancouver's Comprehensive Six-Year Transportation Improvement Program for 2019-2024 and revising the City's Arterial Street System and Classification Map.

Summary

The 2019–2024 TIP presents a transportation development program that supports implementation of the City's adopted comprehensive plan. It includes funding allocation recommendations for street capital revenues including new revenues from the Street Funding Strategy. The project lists clearly identify those

projects and programs that are intended to receive funding from the sources approved as part of the Street Funding Strategy.

The TIP also provides updates to the Arterial Classification Map. The arterial map update includes minor revisions, such as changing proposed arterials to existing arterials.

Mr. Malone provided a brief overview and background information on the TIP.

Mayor McEnerny-Ogle opened the public hearing and, receiving no testimony, closed the public hearing.

Councilmember Stober thanked Mr. Malone for his work on the TIP and noted that it is impressive documentation and reference for citizens.

Councilmember Lebowsky asked what 137th Avenue would be redesignated as if it is no longer classified as an arterial. Mr. Malone said it would be considered a neighborhood circulator.

Motion by Councilmember Stober, seconded by Councilmember Lebowsky, and carried unanimously adopted Resolution M-3969 approving the proposed 2019-2024 Transportation Improvement Program. *(Chris Malone, Public Works Finance & Asset Management Manager, 487-7711)*

7. 2018 FIRST SUPPLEMENTAL BUDGET

(Staff Report 082-18)

Natasha Ramras, Chief Financial Officer, provided staff comments.

Mayor McEnerny-Ogle read the title of the ordinance into the record.

AN ORDINANCE relating to the 2017-2018 Biennial Budget and making various appropriations in various funds; eliminating a fund that is no longer needed; declaring an emergency and providing an effective date.

Summary

Each year, budget adjustments must be made to reflect changes in revenues and expenses that occur after the budget is adopted by City Council. These adjustments can generally be categorized into the following areas:

- *Corrections or administrative updates to the adopted 2017-2018 Biennial Budget.*
- *Activities and expenditures associated with new external revenues.*
- *New items funded with unobligated and undesignated funds.*

Budget amendments are recommended for the City's various funds as detailed in Attachment A of the Ordinance. The recommended expenditure appropriation adjustments for the City's Operating and Capital funds included in the 2018 First Supplemental Budget total \$10.6 million. Of the \$10.6 million expenditure increase, \$9.8 million is related to the Operating budget, and the remaining appropriation

increase of \$0.8 million relates to changes in the Capital budget and supporting transfers. The net impact on all City resources is an addition of \$5.0 million to fund balances; the net impact on the General Fund is a \$0.7 million decrease to the fund balance.

The total Operating budget appropriation change in the General, Street and Fire (GSF) funds represents an increase of \$4.6 million. The remaining \$5.2 million increase relates to changes in other funds.

Appropriation adjustments in the City's GSF funds total increase of \$4.6 million include the following major items:

- *New initiative requests of \$3.9 million include:*
 - *Appropriation of \$0.7 million for salary contingency.*
 - *Appropriation of \$0.6 million for the homeless day center improvements expected at the newly acquired Grand Blvd property, all of which is offset by revenue.*
 - *Increased appropriation of \$0.5 million related to a property purchase for the future Operations Center redevelopment project in which General Fund is 40% owner.*
 - *Increased appropriation of \$0.5 million set aside for expected property repair & maintenance for the Tower Mall facility.*
 - *Increased appropriation of \$0.3 million to fund the replacement of the police department's records management system.*
 - *Appropriation in Community & Economic Development of \$0.2 million for downtown entryway improvements and \$0.2 million for the Heights Subarea planning to replace the current Tower Mall location.*
 - *Streets increased appropriation of \$0.1 million for contracted services for homeless encampment clean-up efforts.*
- *Cost neutral requests totaling \$0.7 million and funded by \$0.8 million in new external revenues:*
 - *Numerous grants in Police totaling \$0.5 million and in Fire for \$0.2 million.*
- *Administrative adjustments include:*
 - *An alignment of appropriation between Street fund 102 and Street Initiative fund 103 in the Pavement Management construction budget for more efficient tracking by the department*
 - *Updated appropriation for utility tax revenue increases to the General Fund.*

A total of \$10.7 million in appropriation increase relates to other operating city funds. Some of the major changes are summarized below:

- *Budget adjustment of \$5.6 million in the Streets Initiative Operating fund 103 offset by a reduction in fund 102.*
- *Additional appropriation of \$1.5 million in the Self Insurance Benefits fund to support increased benefit costs.*
- *Adjustment to the Tennis Center fund of \$1.0 million to support the transition through new ownership of operations to UTSA.*

- *Adjustment in the Risk Management Fund of \$0.6 million to cover higher than originally anticipated actuarial costs and claims activity.*

The total Capital Budget appropriation of \$0.8 million (including internal transfer reduction of \$1.0 million) is included in the First Supplemental of 2018. Specific amendments by project are outlined in Attachment C to the ordinance. Following are some of major projects included by functional area:

- *General/Facilities major capital projects totaling \$1.7 million include the following:*
 - *Fire Station 11 land and design appropriation of \$0.6 million fully funded by Fire District 5.*
 - *Petlock building demolition site conversion into a parking lot for \$0.3 million.*
 - *An appropriation of \$0.3 million for HVAC and entryway stair replacement in the Historic Museum fully funded by a Department of Commerce grant.*
 - *Firstenburg Community Center pool resurfacing repair for \$0.3 million.*
- *Parks of \$1.9 million for the Waterfront Park and plaza work offset by developer contribution of \$1.0 million.*
- *Transportation project reduction totaling \$3.1 million include:*
 - *A reduction of \$3.5 million in appropriation for the SE 1st St – 164th to 192nd Ave project due to timing; will be budgeted in the next biennium.*
 - *Multimodal Safety and Accessibility project of \$0.2 million.*
- *Airport capital of \$0.6 million for the Pearson Airport runway project offset with grant funding.*
- *Parking fund capital of \$0.4 million for the installation of pay stations at the Waterfront.*
- *Historic Reserve projects of \$0.2 million for Evergreen trail asphalt replacement, additional street lights for the Officer's Row alley, and land bridge irrigation system repairs.*
- *Increased appropriation of \$1.5 million from General Fund reserves to put aside for the new future Operations Center redevelopment project.*

Attachment B of the ordinance outlines changes to FTEs. An increase of 4.25 FTEs is recommended in the First Supplemental of 2018, all of which are supported by external revenue or existing budget and are outlined below:

- *1.0 new 3-year limited-term Communications Coordinator position in the City Manager's Office.*
- *1.0 new Senior Construction Inspector in the Streets Pavement Management program in which will replace work currently being contracted out.*
- *1.0 new Police Service Technician for neighborhood parking enforcement.*
- *0.5 new 3-year limited-term Support Specialist in Parking to administer the court appeals process offset with a reduction in district court expenses in the general fund.*
- *0.25 increase to an existing position in the Human Resources department.*
- *0.5 new Support Specialist for Code Compliance*

Ms. Ramras provided an overview of the proposed supplemental budget.

Mayor McEnerny-Ogle opened the public hearing and, receiving no testimony, closed the public hearing.

Motion by Councilmember Hansen, seconded by Councilmember Turley, and carried unanimously to approve Ordinance M-4234. *(Natasha Ramras, Chief Financial Officer, 487-8484)*

8. KESSID CHURCH RIGHT-OF-WAY VACATION
(Staff Report 052-18)

Ryan Lopossa, Streets & Transportation Manager, provided staff comments.

Mayor McEnerny-Ogle read the title of the ordinance into the record.

AN ORDINANCE vacating a portion of the right-of-way associated with the alley connecting Washington Street and Main Street, between West 27th and West 28th Streets, located within Block 3 of "Steel's Addition," in the Southeast Quarter of Section 22, Township 2 North, Range 1 East, Willamette Meridian, City of Vancouver, Clark County, Washington; providing for an effective date.

Summary

Staff has received a request from the Kessid Church to vacate a portion of partially improved alley right-of-way associated with the alley connecting Washington Street and Main Street, located between West 27th and West 28th Streets. The right-of-way is specifically located within Block 3 of "Steel's Addition," in the Southeast Quarter of Section 22, Township 2 North, Range 1 East, Willamette Meridian.

The pending site improvements on the applicant's properties will include construction of an ADA-compliant elevator enclosure on the external face of the existing church building. The applicant's architect explored all location options for the elevator and concluded that the only viable location is on the south face of the building, immediately adjacent to the alley. The elevator enclosure will extend into the alley right-of-way, thus requiring the proposed right-of-way vacation.

The alley right-of-way currently provides secondary property access and public vehicular circulation between Washington Street and Main Street. The west segment of this alley provides rear property access to two (2) existing residential lots with single-family homes (2701 and 2711 Washington Street). This segment of the alley right-of-way will not be vacated, and will remain unchanged.

The portion of the alley right-of-way to be vacated begins approximately 150 feet east of Washington Street and extends approximately 155 feet westward to Main Street. This right-of-way contains approximately 15 feet of paved alley surface, an 8-inch sewer main, and a 2-inch water main.

Six (6) parcels adjoin the right-of-way to be vacated. All of these adjoining parcels are owned by the applicant. Pursuant to VMC 11.05.130, the property associated with a vacated street shall belong to the abutting property owners, one-half to each. Since the applicant owns all adjoining parcels, the entirety of the right-of-way to be vacated will be transferred to the applicant.

In addition to the elevator enclosure described above, the pending site improvements on the applicant's properties will include construction of new parking areas and associated vehicular circulation aisles. The proposed circulation aisle on the north side of the block will connect to the dead-end of the remaining

alley right-of-way to provide vehicular connectivity to West 28th Street. In addition to normal vehicular traffic, this connection will accommodate trash collection trucks and may also be used as a secondary emergency access corridor. The design of the proposed circulation corridor has been reviewed and approved by the Fire Department and the Solid Waste Division. A public access easement is being provided to protect the proposed circulation connection.

Finally, staff has reviewed the City's Transportation Systems Plan and determined there is no future need for this portion of alley right-of-way. Therefore, vacation of this alley right-of-way will have no adverse impact on the City's transportation assets.

Staff has contacted all utility owners with facilities potentially located within the subject area. The City of Vancouver has utilities within the area of the proposed vacation, including a 2-inch water main and an 8-inch sewer main. As part of the pending site improvements, the applicant will be required to abandon the 2-inch water main and move the 8-inch sewer main. The applicant will reconnect water services to the affected properties as part of the pending site improvements, at the direction of the Water Engineering Division. The applicant will also reconstruct the existing sewer main in a new alignment and dedicate a public utility easement for the construction, repair and maintenance of the new sewer main. There are no other utilities requiring an easement within the area to be vacated.

RCW 35.79.030 and VMC 11.05.120 stipulate provisions for the City to collect compensation for the value of public right-of-way that is vacated. An analysis of the County Assessor's records for properties in the immediate vicinity of the proposed vacation area resulted in an estimated property value equal to \$17.56 per square foot. The total area of the proposed vacation is 2,303 square feet. This results in a total estimated property value equal to \$40,440.

As previously noted, the right-of-way has historically been used to provide public street connectivity and utility services to the immediate area. The alley has been part of a dedicated public right-of-way for 25 years or more, and the vacated area will be utilized by the applicant for expansion of their current use. Therefore, staff recommends the imposition of compensation equal to 100% of the total estimated property value, which is equal to \$40,440. This sum shall be remitted to the City prior to the right-of-way vacation becoming effective.

Mr. Lopossa provided an overview of the proposed vacation. He noted that the applicant had not yet submitted a site plan for the site improvements they are intending to make at the church, but that would be required prior to this vacation going into effect. In response to testimony at the May 21, 2018, public hearing on this item, he reported that he had confirmed street trees would be a required element of the development, as would enclosures for any waste receptacles stored outside.

Mayor McEnerny-Ogle opened the public hearing and received the following testimony:

- Tim Calderbrook, legal counsel for Karen Kanaka'ole, speaking on behalf of his client, expressed concerns that traffic would significantly increase around her home and on-street parking would become constrained once the church's congregation becomes active. He stated she is also

concerned that added lighting would be disruptive. She wanted to know how she would be made aware of the construction schedules and timelines.

- Karen Kanaka'ole, Vancouver, stated that until neighbors see a site plan, there is no way of knowing what potential impacts would be, but she expressed concerns that a congregation of the size that would be utilizing the church would inevitably have an impact to the surrounding neighborhood.
- Chris Dickinson, representing the Carter Park Neighborhood Association, thanked Mr. Lopossa for his work with the neighbors on this matter. She expressed concerns about increases to traffic and increased parking demands. She stated better signage about where and when on-street parking is allowed would be beneficial.

There being no further testimony, Mayor McEnerny-Ogle closed the public hearing.

Mr. Lopossa explained that parking and lighting would be evaluated under the site plan review process. He stated it was his understanding that the applicant intended to increase the parking lot on the site. He stated that the City could look at any signage improvements necessary to on-street parking issues. Regarding how neighbors would be notified about the construction schedule, he recommended neighbors establish a relationship with the pastor and encouraged the church to utilize the neighborhood association to get the word out. He explained that the City only has influence over a project up until the point a permit is issued.

Councilmember Hansen asked why a site plan is not part of the right-of-way vacation process. Mr. Lopossa stated that typically the City will conduct the vacation process when an applicant approaches the City with the request, and that usually occurs before the site plan review as the site plan often relies on successful vacation of right-of-way. The applicant does not want to get too far along in the planning process before knowing the right-of-way vacation is successful.

Motion by Councilmember Hansen, seconded by Councilmember Stober, and carried unanimously to approve Ordinance M-4235. *(Ryan Lopossa, Streets & Transportation Manager, 487-7706)*

COMMUNICATIONS

- A. From the Council
- B. From the Mayor

a. Review of Portland Metro Area Value Pricing Feasibility Analysis – Policy Advisory Committee Draft Recommendation

Rebecca Kennedy, Long Range Planning Manager, provided an update on the Portland Metro Area Value Pricing Policy Advisory Committee's (PAC) draft recommendation to the Oregon Transportation Commission, noting specific instances where the draft recommendation aligned with the City Council's previously recommended policy framework on this matter, and noting where the draft recommendation did not. Ms. Kennedy provided suggestions for points the Council could

outline in its response to the Policy Advisory Committee, especially regarding the mitigation statements outlined in the draft recommendation.

Mayor McEnerny-Ogle noted that the PAC staff had sent the draft recommendation out to PAC members just before Council discussed this matter in workshop, and during the Council's dinner break, staff provided Council with pages 1-1 to 1-4 and 2-1 to 2-9 of the draft recommendation for Council to read through and consider in advance of Ms. Kennedy returning under Communications to provide more detailed information about the content of the draft recommendation. She noted that the final PAC meeting would occur prior to the next Council meeting, hence the need for the Council to discuss this issue at this meeting.

Council discussed in detail the proposals in the draft recommendation and their preferred responses to the questions posed in the draft recommendation, and provided City staff direction and feedback in order to craft a letter from the Council that would be included in the final recommendation to the Oregon Transportation Commission as part of PAC member written comments.

C. From the City Manager

a. Plastic Bag and Film Recycling Strategy

Tanya Gray, Solid Waste Supervisor, provided Council with a brief update on the City's plastic bag and film recycling strategy, and provided a recommendation for developing a proposal to advance the program.

ADJOURNMENT

8:55 P.M.

Anne McEnerny-Ogle, Mayor

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Meetings of the Vancouver City Council are electronically recorded on audio and videotapes. The audio tapes are kept on file in the office of the City Clerk for a period of six years.



Memorandum

DATE: June 13, 2018

TO: Mayor and City Council

FROM: Bryan Snodgrass, Principal Planner, Community and Economic Development Department

RE: July 2 work session review of proposed Sadri Mill Plain/148th Avenue Development Agreement (DA) rescission request

CC: Eric Holmes, City Manager

This memorandum summarizes the DA rescission request scheduled for Council worksession review on July 2, followed by first reading on August 13, and public hearing on August 20. City planning, transportation and legal staff will attend the worksession and hearing. Staff contact is Bryan Snodgrass, bryan.snodgrass@cityofvancouver.us, (360) 487-7946.

The request from applicant Kia Keyvani of Delta Management is to remove a 2008 Development Agreement applying to five contiguous properties on the north side of Mill Plain Boulevard at 148th Avenue. The westernmost three of the five properties are vacant. The easternmost two properties contain a small commercial mall and a tavern. The site is zoned Community Commercial. North of the site are single family homes constructed in the 1970's, although a majority of those abutting the proposal appear to have been purchased since 2000. South of the site is Mill Plain Boulevard, which contains an almost continuous median, with a single opening that westbound traffic only to turn north into the existing development on the site. On the south side of Mill Plain is a senior housing facility. To the west is a credit union. The Vancouver Police Department's East Precinct building is located to the east of the site.

No development is proposed at this time by the applicant, which owns the three vacant properties of the five covered by the DA. In 2017, the westernmost of the subject properties was proposed by a third party for storage development, but the proposal did not advance beyond the pre-application stage after the DA restrictions became apparent.

The principal requirements of the 2008 DA (page 16 herein) requested for removal are:

- Prohibition of drives through or 24-hour uses, outdoor or bulk sales, storage, carwashes, gas stations or auto repair, auto rental or sales, industrial service and manufacturing uses;
- Required orientation of buildings near front setbacks with parking in the rear and first floor building frontage features;
- Enhanced landscaping and screening requirements;
- Limitations on vehicle access to Mill Plain Blvd, with required coordinated access among all properties to 148th Avenue;
- Road design and construction specifications for 148th Avenue, which has since been built

If the DA is rescinded, future development could occur as allowed in the Community Commercial (CC) zone under normal City zoning and transportation standards. The CC zone allows a range of primarily commercial uses, including eating and drinking establishments, lodging, childcare centers, dog daycare and kennels, indoor entertainment, retail, auto sales and service including gas stations, office, and storage. Industrial services, micro-breweries and optical/medical/dental manufacturing are also allowed in the CC zone. Housing is allowed only as part of a mixed use development.

The 2008 D.A. is derived from a 2002 concomitant rezone agreement in which the site and two additional properties to the east were rezoned from office and multi-family residential designations to the current Community Commercial. Follow up amendments in 2004 and 2006 shrank the geographic scope of the agreement to the current five properties. The mini-mall on the site was built in 2007 under the concomitant rezone requirements. The 2008 decision converted those requirements into a Development Agreement, and reduced the list of prohibited uses so that most retail uses were allowed.

Proposal details and mapping are addressed in greater detail in the attached Planning Commission staff report beginning on page 3 of this memorandum. The DA itself is attachment D to the Planning Commission staff report, beginning on page 16. The applicant has argued that the DA restrictions are unique among the many similarly zoned commercial properties along Mill Plain Blvd, have resulted in most of the site remaining undeveloped, and are redundant of existing City regulations. The staff report recommended retaining those portions of the DA that reflect the particular features of this site, such as keeping prohibitions on auto and other high intensity uses which might be unadvisable given the access constraints posed by the unusually lengthy median on Mill Plain Blvd, or the building orientation provisions which could result in development similar to the commercial mini-mall on the site. The staff report also recommended retaining use prohibitions on storage and other uses offering relatively lower employment or economic benefit in the context of a major east-west arterial with extensive transit service such as Mill Plain Blvd.

At the hearing the applicant dropped objections to the DA provision requiring coordinated access among all the properties to 148th Avenue, and focused concerns on the use prohibitions. No public testimony was offered. The Planning Commission voted 4-2 to recommend partial rescission of the DA as recommended in the staff report. See Exhibit 3 for Planning Commission minutes.

No public testimony was offered although the hearing was attended by two neighboring residential homeowners who had received notice through hardcopy mail. The site is within the area of the East Mill Plain Neighborhood Association, which was recognized in June 2017. Notice of the Planning Commission hearing was mistakenly not sent to the neighborhood chair. Communication has since been established, and staff presented at a June 12 neighborhood meeting. Attendees present voted to support retention of the use prohibitions in the DA. Concerns were also raised about ongoing noise from the existing tavern on the proposal site.

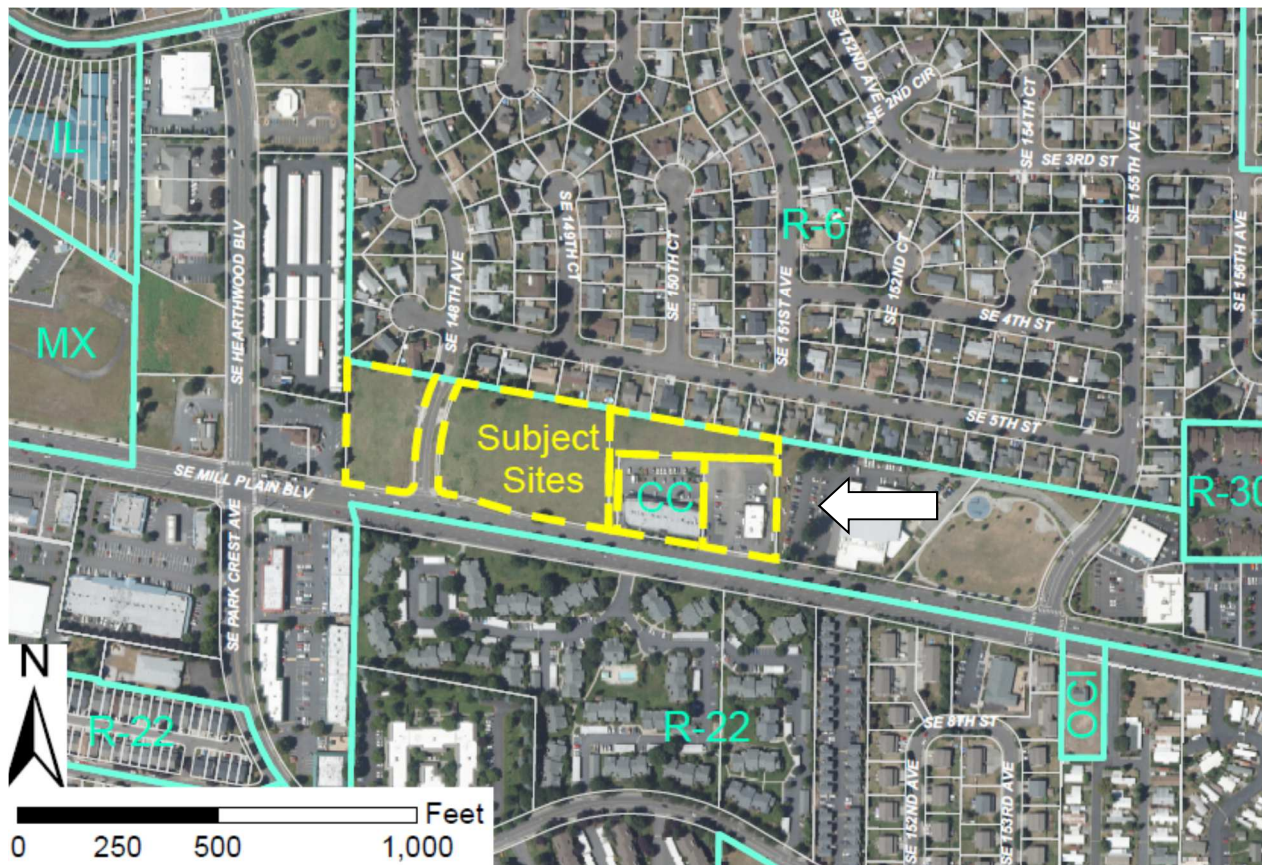
Exhibits:

1. Planning Commission Staff Report and attachments (begins on page 3. Existing Development Agreement begins on page 16)
2. Applicant submittal at Planning Commission hearing (begins on page 23)
3. May 22, 2018 Planning Commission minutes (begins page 25)

EXHIBIT 1 – PLANNING COMMISSION STAFF REPORT



May 22, 2018 Planning Commission Public Hearing Staff Report Sadri – Yu Mill Plain/148th Avenue Development Agreement rescission request



Report Date: May 9, 2018

Proposal: Rescind Development Agreement established in 2008 on five adjacent properties zoned Community Commercial (CC).

Location: North side of Mill Plain Boulevard near Southeast 148th Avenue. Addresses are 14799, 14800, 14900, 14930 and 15000 Mill Plain Blvd. Parcel numbers are 167676000, 164700000, 164699000, 167650000, and 167633000

Proponent: Kia Keyvani 203 E Reserve Street Vancouver WA 98661 360-696-4448

City Staff: Bryan Snodgrass, Community and Economic Development Principal Planner, 360 487-7946, bryan.snodgrass@ci.vancouver.wa.us

Recommendation: Forward to City Council recommendation to **remove some but not all substantive provisions** of the Development Agreement

I. BACKGROUND AND REVIEW PROCESS

The five properties subject to the Development Agreement are partially developed. The easternmost two of these properties, at 14930 and 15000 Mill Plain Blvd., contain a small commercial mall fronting Mill Plain, and a tavern. The other three properties at 14799, 14800, and 14900 Mill Plain Blvd are undeveloped. The five proposal site properties are all zoned Community Commercial (CC). Adjacent to the site are range of uses. To the west is a credit union zoned CC. East is the Vancouver Police East Precinct building, also zoned CC. To the north are single family homes zoned R-6. South of the site across Mill Plain Blvd is a senior housing complex zoned R-22.

The existing D.A. was adopted by the Vancouver City Council at a public hearing on December 1, 2008, following a Planning Commission hearing on October 28, 2008. See Attachment D of this report. Current property owners Ashgar Sadri and Ken Yu have retained ownership through this period, and were signators to the DA. Key requirements of the D.A. are:

- Uses: Commercial drive throughs, 24-hour services, car washes, body shops, auto sales or rental, fuel stations, outdoor sales or other outdoor activities of any kind, bulk sales, self-serve storage, industrial services and manufacturing are all prohibited.
- Building orientation and appearance: Buildings must be located at or near minimum front and street side setbacks to the extent possible, with parking behind buildings away from streets. Entrances must be oriented towards pedestrian streets or plazas. First floor building walls facing streets or pedestrian access ways must largely (3/4 of wall length and ½ of wall area) consist of windows or other interest gathering features.
- Landscaping and Screening: Development along Mill Plain Blvd. must provide a landscaped 20 foot deep front yard and 3-foot tall shrubbed berm is required. Development abutting single family residences to the north must provide a landscape buffer that is 10 foot deep, contains continuous 6-foot high shrub or fence screen, and trees no more than 30 feet apart. Storage and equipment areas shall be screened from abutting residences.
- Access: The westernmost property on the west side of 148th Avenue must take access from 148th Avenue only. The remaining four properties must provide shared or cross access so they can all access both 148th Avenue and Mill Plain Blvd, but no more than two access points in total are allowed on Mill Plain.
- Road Improvements: The D.A. contains requirements for design and construction of 148th Avenue, which have been met.

The proposal to rescind the D.A. is being processed as a post-decision review and generally in the same manner as the 2008 process in which the D.A. was established. Vancouver Municipal Code (VMC 20.210.140.C.7 - Post Decision Review) stipulates “When a post-decision request for a change involves a condition of approval that was imposed in the original decision to address a specific potential impact of the proposed development, then that condition of approval can be changed only by using the same process as the original decision”. Post Decision Review standards do not provide for approval criteria, but the 2008 ordinance establishing the D.A. used Small Scale

Rezone change criteria of VMC 20.285.080. This staff report considers those standards to evaluate the current rescission proposal.

Notice of the May 22, 2018 Planning Commission public hearing has been published in the Columbian newspaper, signs posted at the site, and hardcopy mail notice sent owners and residents within 500 feet of the site. The site and properties to the north are not represented by a recognized Neighborhood Association. Only one comment has been received to date, Attachment E of this report, from Ken Yu, an owner of property within the proposal site and originally a supporter of the application as submitted, requesting retention of the D.A. provision requiring coordinated access across all proposal properties to 148th Avenue.

The 2008 D.A. follows a 2002 concomitant rezone agreement in which the site and two additional properties to the east were rezoned from office and multi-family residential designation to the current Community Commercial, with requirements established prohibiting most retail uses, apply design criteria, and facilitating access to 148th Avenue while limiting access to Mill Plain Boulevard. Follow up amendments in 2004 and 2006 shrank the geographic scope of the agreement to the current five properties. The 2008 decision converted the requirements into a Development Agreement, and allowed more types of retail uses. A SEPA Determination of Non-Significance (DNS) was issued for the D.A. on Sept. 24, 2008.

II. PROPOSAL SUMMARY

The applicant proposes rescinding the 2008 Development Agreement, which would allow the properties to develop as allowed under the Community Commercial zone and applicable City transportation and other standards. The applicant's narrative is included in full in Attachment C of this report. Main arguments presented are:

- Other commercially zoned Mill Plain corridor properties in the vicinity do not have similar use, design, and access restrictions.
- Some of the concerns raised in the original 2002 decision establishing commercial zoning on the site subject to various requirements are no longer appropriate today. The Mill Plain corridor between I-205 and 164th Avenue has already been developed with commercial uses, obviating previous concerns about strip commercial development on the site. Original requirements for properties to provide access to 155th Avenue to the east, in addition to 148th Avenue to the west, are no longer achievable because the eastern sites have been developed for a police station.
- 2008 D.A. requirements intended to limit impacts to the single family neighborhood north of the site are not required of other nearby commercial development abutting neighborhoods, and are no longer needed, as baseline City code requirements for screening and buffering have been strengthened since 2008.

III. REVIEW CRITERIA AND FINDINGS

Section 20.285.080 Small Scale Rezones

A. Approval process for rezones of 25 acres or less and Planned Unit Developments

All proposals for amendments to the zoning map for parcels of less than 25 acres in size and for approval of Planned Unit Developments shall be processed in accordance with the procedures set forth for a Type IV process in VMC 20.210. In addition, applications for approval of Planned Unit Developments shall meet the requirements of VMC 20.260.

B. Approval criteria for rezones of 25 acres or less and Planned Unit Developments

Zone change proposals submitted without an associated comprehensive plan change shall demonstrate consistency with the Comprehensive Plan and that a substantial change in circumstances has occurred since the original designation. In addition, applications for approval of Planned Unit Developments shall meet the requirements of VMC 20.260.

C. Required Findings for rezones of 25 Acres or less and Planned Unit Developments

No zone change shall be approved unless the required findings of VMC 20.285.085 have been addressed in the written staff report and the written decision of the review authority.

Applicable Vancouver Comprehensive Plan Policies

CD-2 Citywide land supplies

Encourage efficient development patterns throughout Vancouver to ensure achievement of an average density of 8 units per acre set by countywide planning policies . Encourage higher density and more intense development in areas that are more extensively served by facilities, particularly transportation and transit services.

CD-6 Neighborhood livability

Maintain and facilitate development of stable, multi-use neighborhoods that contain a compatible mix of housing, jobs, stores, and open and public spaces in a well-planned, safe pedestrian environment.

CD-9 Compatible uses

Facilitate development that minimizes adverse impacts to adjacent areas, particularly neighborhoods.

EC-1 Jobs-housing balance

Increase the ratio of jobs to residents in the City of Vancouver and the region.

EC-5 No net loss of employment capacity

Restrict zone changes or legislative land use approvals that would lessen long-term capacity for high-wage employment unless accompanied by other changes within the same review cycle that would compensate for the lost capacity or unless the proposed change would promote the long-term economic health of the city.

EC-6 Efficient use of employment land

Maximize utilization of land designated for employment through more intensive new building construction and redevelopment and intensification of existing sites.

The existing Vancouver Comprehensive Plan may be read in full at http://www.cityofvancouver.us/sites/default/files/fileattachments/community_and_economic_development/page/874/vancouvercomprehensiveplan2011-2030.pdf

Staff Findings: The passage of time since 2008, construction of 148th Avenue on the site and changes to City code together represent a significant change in circumstances since the D.A. was established, although the 148th Avenue construction was envisioned and required by the D.A. Staff also finds that removal of several but not all provisions are D.A. is consistent with the Comprehensive Plan and appropriate in light of updated code standards. Requirements recommended for retention are:

- Prohibited uses (Section I of D.A., attachment D of this report) which represent uses that either provide limited employment relative to the potential of Mill Plain Boulevard, Vancouver's most prominent east-west arterial; or are problematic with Mill Plain access limited to right-in, right out.
- Design standards (Section III A, B, and C) requiring building placement near street setbacks lines, with primary entrances oriented to pedestrian oriented streets, window or interest-creating features along building frontages, and parking in the rear. The intent is the remaining undeveloped Mill Plain frontage be developed in a generally similar manner to the existing small commercial mall in the proposal site at 14930 Mill Plain.
- Access provisions (Section V A and B) requiring all properties to provide access to 148th Avenue. As noted retention of this provision has been requested by Ken Yu, owner of property within the proposal area.
- Miscellaneous boilerplate legal provisions (VII)

D.A. requirements for landscaping, fencing and screening, and tree selection are generally repetitive of City code, which would require 10-foot wide buffer containing a 6-foot high fully site obscuring fence, as well as four high shrubs and one tree for every 30 lineal feet of buffer length. (VMC tables 20.925.030-1 and -2). Relative to other locations where residential and commercial zones abut each other, the site does not appear to pose unusual impact potential and may have less if the use prohibitions are maintained. City zoning standards may be read in full at <https://www.cityofvancouver.us/vmc?tid=334&throbber=1>

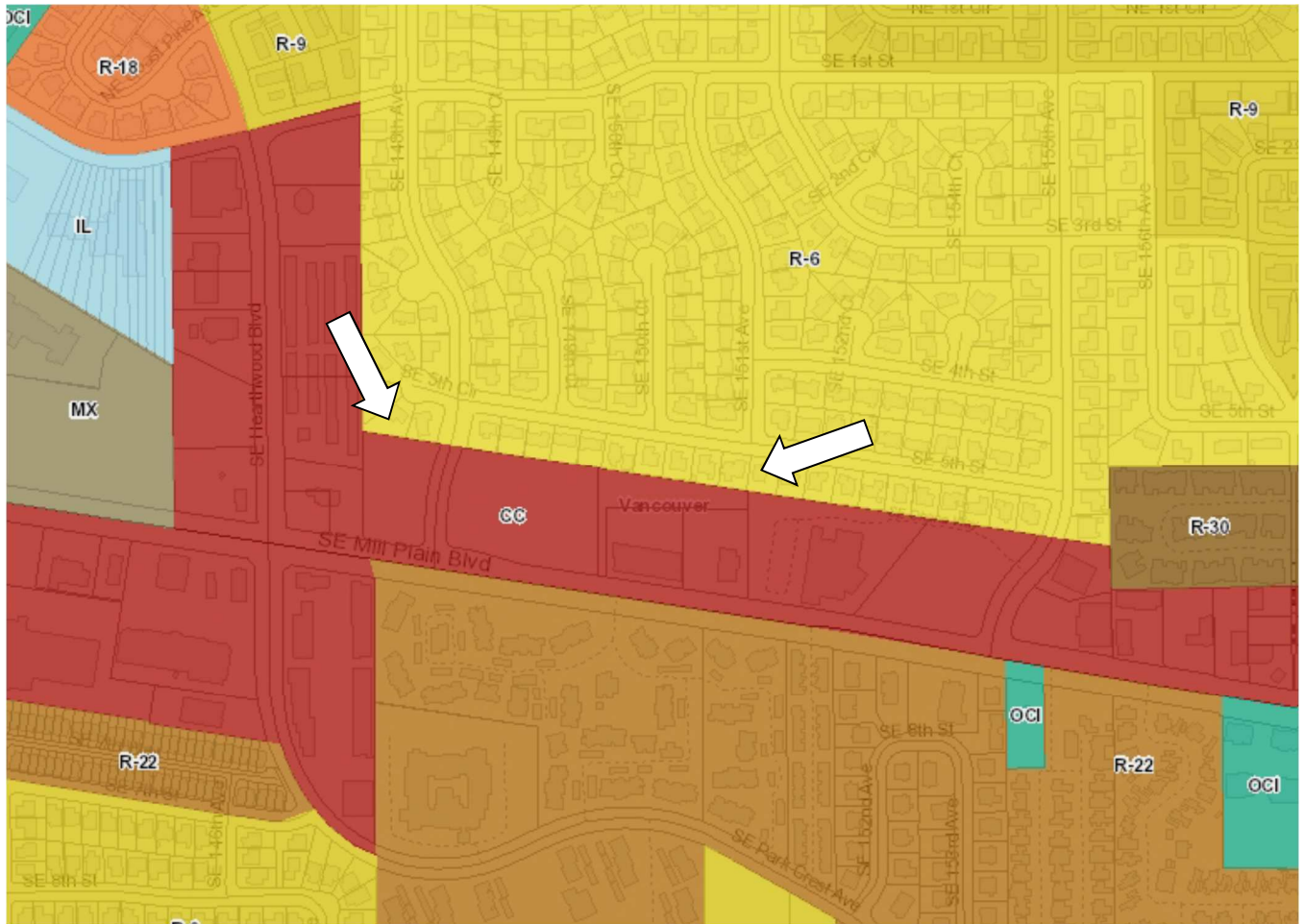
IV. RECOMMENDATION

Based on analysis and findings in this report, staff recommends that the Planning Commission forward a recommendation to the Vancouver City Council to remove some but not all substantive provisions of the 2008 Development Agreement, retaining sections I, III.A, III.B, III.C, IV.A, IV.B, AND VII.

Attachments

- A. Regional zoning map
- B. Site vicinity aerial photo
- C. Applicant narrative
- D. 2008 Development Agreement
- E. Comments received

ATTACHMENT A – REGIONAL ZONING MAP



ATTACHMENT B - SITE AERIAL PHOTO



ATTACHMENT C – APPLICANT NARRATIVE

February 14, 2018

Mr. Jon Wagner,

City of Vancouver

Dept. of Community Development

Vancouver WA, 98668-1995

RE: DEVELOPER'S AGREEMENT RELEASE NARRATIVE

Request

The owner, Asghar Sadri, is requesting release of Ordinance No. M-3906 and the Development Agreement approved by Ordinance No. M-3906 and attached thereto. Ordinance No. M-3906 and the attached Development Agreement were recorded by Auditor's File #3559738 on February 6, 2009 against the following five parcels; 167676-000, 164700-000, 164699-000, 167650-000, 167633-000. All five parcels are currently zoned CC (Community Commercial).

The current Development Agreement terminated and replaced a prior concomitant rezone covenant that was adopted in 2002. Independently of the 2002 concomitant rezone, the City has zoned the entire Mill Plain Corridor from I-205 to 164th Avenue as CC (with the exception of a small portion on the south side that is zoned R-22 with a couple tiny pockets of OCI), so the need for the concomitant rezone covenant/ Development Agreement is no longer valid.

Background:

Asghar Sadri and Ken Yu own five adjoining parcels along the north side of Mill Plain Blvd. west of the police station. (The five properties, hereinafter referred to as "the Site," are outlined on the attached documents hereinafter referred to as "Exhibits".) The City annexed the site in 1994 and zoned it for a mix of office and multi-family residential uses.

In 2002 the owners applied for a Comprehensive Plan amendment asking to rezone the parcels from R-22 and O-22 to Community Commercial through ordinance M-3597. The City rezoned the Site to Community Commercial in 2002, but in so doing required a concomitant agreement that severely restricted retail uses and applied strict design and development criteria. This included a circulation agreement so all parcels would have cross access to SE 148th Ave., SE 155th Ave., and the limited access points to and from Mill Plain, as well as asking that major improvements to SE 148th Ave be made.

Substantial changes have occurred within the area since the concomitant rezone agreement was applied to the properties. The rezone agreement limits the type of land uses and provides design related development standards. The intent of the original 2002 rezone agreement was to minimize and/or mitigate traffic and noise impacts on adjoining residential properties. Office development was contemplated as the primary use for the subject properties. Non-office related uses now occupy almost half the original properties subject to the rezone agreement. The City Council twice modified the concomitant agreement, in 2004 to allow the police station and park, and in 2006 to allow residential use as part of a mixed-use development. Furthermore, these two parcels to the east are no longer subject to the original rezone agreement. Development of the police station and park in 2006 effectively eliminated the cross-access circulation between 148th and Southeast 155th Avenues.

In 2008 an attempt was made by the property owners to amend the 2002 Concomitant Agreement to allow small scale retail uses for the properties as the current Agreement at the time did not allow retail uses. The justification for the amendment was:

- Difficult to develop these properties in an economically justifiable manner with restrictions
- Changing the Comprehensive Plan and zoning designation to Community Commercial would allow the properties to become viable for development
- The properties would match better with the surrounding properties and it will fulfill the goals of the Comprehensive Plan.
- Encouraged more intensive development to locate in major urban centers and corridors

On February 26, 2008, the Vancouver Planning Commission denied the applicants request to amend the 2002 Concomitant Agreement to allow small scale retail uses with no restrictions for the properties. The rationale behind the denial was to stop strip mall development and encourage office development and minimize impacts on the surrounding neighborhood. At the time Staff's belief was that the greatest economic benefit was to have the land be used as office building which would go the furthest towards creating a mixed-use neighborhood and family wage-jobs.

In 2009 Sadri and Yu applied again for a Covenant Release and a new Development Agreement to allow for a greater range of retail uses on the property. Ordinance No. M-3906 which is currently the standing agreement was adopted to allow a greater range of retail uses on the properties however, the restrictions still in place from this ordinance do not allow full commercial use of the property making for undue hardships on the property owners.

How and Why the Request Complies with the Applicable Criteria

We are addressing the criteria both under VMC 20.285.060.B and under VMC 20.285.070.B:

- Why changes in circumstances make the covenant no longer applicable;
- How removal of the covenant is in the best interest of the community; and
- How the covenant release request(s) comply with the current Comprehensive Plan and municipal code.

The context of this request is somewhat unusual in that the staff report supporting the original 2002 rezone listed three clear reasons for restricting retail use of the Site. Those reasons were:

- Compatibility with adjoining residential neighborhoods;
- The non-commercial character of this stretch of Mill Plain; and
- Greater need in Vancouver for land zoned for other types of uses.

These concerns provide an obvious framework for evaluation of this request to release these properties from the Developers Agreement. Furthermore, they cut across the three criteria listed above. Thus, this narrative addresses the three criteria within a discussion of the three concerns laid out by staff. It goes on to discuss the Application in the context of relevant Comp Plan policies.

Compatibility with the Neighborhood

A built single-family neighborhood sits immediately north of the Site. In recommending the concomitant agreement, the 2002 staff report concluded the following:

Adjoining homes would be considerably impacted by many types of businesses permitted in a community commercial zone. Impacts would include noise; potentially, glare; and possibly aesthetic impacts affecting property value. Impacts on numerous apartments across Mill Plain would include an increase in noise if late night traffic were stopping and accelerating from businesses, and also visual impact. Impacts on the planned park, if developed, would include noise and, potentially, safety.

Mitigating impacts on adjoining residential properties is a key component of the recommended developer's agreement. The intended effect of use restrictions would be to make offices the primary use, limiting traffic and noise (in addition to affording economic benefits). Limited commercial uses recommended would not involve all-night hours or drive-throughs.

Ordinance No. M-3906 or the current Developers Agreement now allows a range of retail services to be allowed on the property. This is restricted both by uses as well as design criteria that needs to be met in order to develop. A few basic restrictions are as follows:

- All uses are stated as permitted, except no drive-through, all-night, 24-hour services or establishments, car washes and body shops either free-standing or accessory to main use shall be permitted on the subject properties.
- Uses Not Allowed are Bulk Sales. Outdoor Sales. Motor Vehicle Sales/Rental. Vehicle Fuel Sales. Non-Accessory Parking, Self-Service Storage. Industrial Services. Manufacturing and Production.
- Design standards that are typically associated with overlays currently restrict these properties, where no other CC Developments in the vicinity of the subject property require design standards.

The Applicants agree that it is essential for this process to protect the living environment of the adjacent neighborhood however, since the agreements inception, screening and buffering standards for a commercial property abutting a residential property with no road separating has intensified. Per VMC Table 20.925.030-1 an L4 screening with a 10-foot setback exists for a commercial property abutting residential land. This standard has been put in place to specifically to reduce the adverse impacts on a residential neighborhood. The added use restrictions and design standards is an excessive development restriction that is meant to protect only one area of residential land.

The Applicants argue that strengthened design criteria and development standards set forth in the current VMC protects residential land that abuts commercial property. Furthermore, no commercial property that abuts residential zoned land in the vicinity of the subject property has any restrictions put forth on it. The purpose of these standards put in place are to mitigate offsite impacts of retail use of the Site. Putting use restrictions and design standards does not fully protect a residential property, and hinders growth in the community.

Commercial Character of Mill Plain

In detailing its concern about this issue, the 2002 staff report reached the following conclusions:

Strip commercial development is discouraged by Plan policies and Plan amendment approval criteria, even though much commercial development in transportation corridors has already occurred.

[T]his is the last stretch of Mill Plain between I-205 and 164th that has no commercial development on either side. It provides a very noticeable break between the heavily developed commercial node across Mill Plain from the airport, and the commercial area approaching 164th to the east. Conversion of the subject properties to unrestricted community commercial uses would have the effect of creating a continuous commercial strip from I-205 to 164th.

The Applicants agree that this observation applied circa 2002, but circumstances have changed. Most notably, the city acquired 5.05 acres of the Site (also shown on the attached aerial) and developed them with the police station and park. This change in circumstances means over half the original developable acreage is already converted to the types of uses desired by city planners for this area, i.e. non-strip commercial development.

The new development standards set in place by Vancouver Municipal Code sets standards that limit signage and access on Mill Plain, and mitigate the visual appearance of a "sea of asphalt" by requiring substantial landscaping. The standards set in place today mixed with the break in retail uses by the existing park and police station eliminate the concern for a resulting strip mall appearance.

Greater Need for Land Zoned Other than CC

The Applicants suspect that this concern may be largely a non-sequitur at this point. First, measuring land need over an area as large as the Vancouver urban area may not be very meaningful. We suspect that, City-wide, such an inventory would show plenty of land available in all zoning categories.

More important, City boundaries do not define market areas. Rather, the market defines how much land is needed and where.

Like the multi-family zoning before it, the market has not supported the office uses that were sought by the concomitant agreement. We do not suggest that the market should be left unregulated and do recognize the City's legitimate interest to regulate land use for the broader public welfare. However, the lack of development activity on the Site over the past thirty years is evidence that, even assuming the City has a greater need for land other than retail, the Site is unable to satisfy that need.

Comprehensive Plan Policies

The following addresses the criteria both under VMC 20.285.060.B and under VMC 20.285.070.B:

1. Overall. Proposed amendments reviewed under this chapter shall be approved only if demonstrated by the proponent to be in the public interest, as based on a review of all applicable principals from the following:

a. How the proposal is more consistent with applicable policies of the comprehensive plan than the existing designation, and

The Development Agreement preserves restrictions that were initially imposed some fifteen years ago as part of a concomitant rezone process. The existing zoning for the property is now CC.

Given the existing CC zoning that predominates along Mill Plain from I-205 to 164th Avenue, the proposal to remove the Development Agreement that is inconsistent with the existing development regulations pertaining to the property and surrounding properties is more consistent with the applicable Comprehensive Plan policies than the outdated restrictions of the Development Agreement. Revert the property to the existing and applicable zoning and development regulations would be more consistent with applicable policies of the comprehensive plan than the existing outdated restrictions of the Development Agreement.

b. How the proposal is more consistent with each of the following objectives than the existing designation. Consistency is not required where the objective is clearly not applicable to the type of proposal involved.

1. Encourage more intensive development to locate in major urban centers and corridors, particularly downtown Vancouver. Encourage development of distinct neighborhoods served by commercial nodes, and discourage urban sprawl and strip commercial development;

This standard is not applicable to this proposal, although the proposal would promote development of vacant property along a major commercial corridor that is currently vacant due to the obstacles to development presented by the Development Agreement.

2. Provide development of uses which are functionally integrated with surrounding areas and neighborhoods in terms of local shopping, employment, recreational or other opportunities;

This standard is not applicable to this proposal, although the proposal would promote development of vacant property into an integrated development with surrounding areas through the regulations the City has established in its development regulations applicable to CC zoned property. The additional restrictions in the Development Agreement are left over from a past era and are no longer helpful or necessary and in fact present an obstacle to development of the property to productive uses.

3. Provide development which is compatible and integrated with surrounding uses in terms of scale, orientation, pedestrian enhancements, and landscaping;

This standard is not applicable to this proposal, although the proposal would promote development of vacant property that is compatible and integrated with surrounding uses through the regulations the City has established in its development regulations applicable to CC zoned property. The additional restrictions in the Development Agreement are left over from a past era and are no longer helpful or necessary and in fact present an obstacle to development of the property to productive uses.

4. Conserve or enhance significant natural or historical features;

This standard is not applicable to this proposal. There are no significant historic or natural features on the property subject to the Development Agreement.

5. Provide adequate provision of transportation, water, sewer, and other public services;

This standard is not applicable to this proposal. Provision of transportation, water, sewer, and other public services would be provided through compliance with the City's development and concurrency regulations applicable to CC zoned property.

6. Provide significant family wage employment opportunities and broadening of the Vancouver economy; and

This criterion is not applicable; however, the proposal would facilitate development of vacant property to productive uses in furtherance of the goals of this criterion.

7. Provide for the formation and enhancement of neighborhoods and communities.

This criterion is not applicable to the request to remove outdated restrictions from a Development Agreement to CC zoned property that will remain subject to all of the City's development regulations.

1. Proposed plan text changes shall be considered based on the following:

a. The proposed change is consistent with the applicable provisions of the Growth Management Act, state and federal law, or other legal mandates; and

Removing outdated restrictions from a Development Agreement in order to subject the property to current regulations would be consistent with the applicable provisions of the Growth Management Act, state and federal law, or other legal mandates.

b. The proposed change is consistent with the applicable provisions of the Community Framework Plan, Countywide Planning Policies, and the Vancouver Comprehensive Plan; and

Removing outdated restrictions from a Development Agreement in order to subject the property to current regulations would be consistent with the applicable provisions of the Community Framework Plan, Countywide Planning Policies, and the Vancouver Comprehensive Plan.

c. The proposed change is necessary to further the public interest based on present needs and conditions.

Present needs and conditions are regulated by the City's development regulations that implement the comprehensive plan. The Development Agreement is a remnant from an old concomitant rezone that occurred over 15 years ago. The surrounding area is predominately the same CC zone all the way along Mill Plain from I-205 to 164th Avenue, so whatever need there may have been for these additional restrictions 15 years ago when the zoning in this area was changed no longer exists. These old outdated restrictions from the development Agreement are presenting an obstacle to development of the property to productive uses. The public interest would be served by removing these restrictions from the Development Agreement and reverting to the City's current development regulations.

Conclusion

We are requesting this outdated Development Agreement be terminated because it is no longer needed and is in fact hindering the development of the property. As discussed above, conditions in the area have substantially changed over time and the City's zoning and development regulations applicable to the property have changed to either address issues originally sought to be addressed in the Development Agreement (in the case of the design review restrictions) or to make those issues moot (in the case of the commercial limitations on property that is now surrounded by commercial zoning).

What remains undeveloped on this site is too small to make much of a difference along the Mill Plain corridor or to provide the break in strip commercial that is desired. The restrictions create a burden upon the owner and interested developer's that exceed the benefits the restrictions would provide. The site fits the location and function criteria of CC. We request that this site receive all the uses normally allowable under the CC zoning to allow undue hardship be removed from the owners of these properties.

ATTACHMENT D – 2008 DEVELOPMENT AGREEMENT

TO BE RECORDED

RETURN ADDRESS

City of Vancouver
City Clerk's Office
PO Box 1995
Vancouver, WA 98668-1995

DEVELOPMENT AGREEMENT

ASGHAR R. SADRI and KEN J. YU AND AGNES YU ET AL

This Development Agreement ("Agreement") is entered into by and between the CITY OF VANCOUVER, a Washington Municipal Corporation ("City") and ASGHAR R. SADRI and KEN J YU and AGNES YU ET AL ("Sadri and Yu") and shall be effective as of the last signed date below.

RECITALS

WHEREAS, Sadri and Yu separately own lots comprising that certain real property, located in the City of Vancouver, more fully described as attached and incorporated by reference herein (hereafter, the "Properties"); and,

WHEREAS, Sadri and Yu have applied for a Covenant Release and a new Development Agreement to allow a greater range of uses on the Properties; and,

WHEREAS, the City is a Washington Municipal Corporation with land use planning and permitting authority over all land within its corporate limits; and,

WHEREAS, the City has the authority to enter into Development Agreements pursuant to RCW 36.70B.170 which provides:

The Legislature finds that the lack of certainty of the approval of development projects can result in a waste of public and private resources, escalate housing costs for consumers, and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all is set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic cost of development; and,

WHEREAS, the City is further authorized to enter into Development Agreements pursuant to Vancouver Municipal Code ("VMC") 20.250; and

DEVELOPMENT AGREEMENT - 1

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WHEREAS, in 2002 the City rezoned a larger area that includes the Properties to Community Commercial (CC), subject to a concomitant agreement that prohibited most retail uses, applied strict design criteria, required a joint cross-access agreement for all tax parcels between 148th Avenue and 155th Avenue, and limited access to each parcel; and

WHEREAS, the City twice modified the concomitant agreement to allow development of neighboring properties as a police precinct and a neighborhood park such that there no longer is cross-access to 155th;

NOW, THEREFORE, based on the foregoing Recitals, the parties agree as follows:

AGREEMENT

Development Agreement: This Agreement is a Development Agreement that applies to the properties described in the attachment to be implemented in accordance with RCW 36.70B.170 through RCW 36.70B.210 and VMC 20.250. It shall become a contract between Sadri and Yu and the City upon the City's approval by ordinance or resolution following a public hearing as provided for in RCW 36.70B.170 and VMC 18.55.340.

Effective Date and Duration of Agreement: This Agreement shall take effect immediately upon its adoption by the City Council and execution by all parties; provided that, any time periods specified in this Agreement shall be tolled pending any appeals of any city, state or federal land use decisions entitling Sadri and Yu to commence or complete development.

Vesting: The Properties shall be vested with the following uses, and mitigation measures, and design standards:

I. Uses

Unless otherwise stated, all uses permitted, either outright or pursuant to conditional use approval, within the Community Commercial - CC zone as per VMC Table 20.430.030-1, shall be allowed as such on the Properties. Except no drive-through, all-night, 24-hour services or establishments, car washes and body shops either free-standing or accessory to main use shall be permitted on the subject properties.

Uses Not Allowed. Bulk Sales. Outdoor Sales. Motor Vehicle Sales/Rental. Vehicle Fuel Sales. Non-Accessory Parking, Self-Service Storage. Industrial Services. Manufacturing and Production. (See VMC Chapter 20.160 Use Classifications for definitions).

II. Impact Mitigation

Development on the Properties shall be designed, screened, and buffered to minimize and mitigate negative impacts upon the adjacent residential neighborhood, including but not limited to light, glare, noise, odor, aesthetics, and security in accordance with applicable City, State, and other regulations.

III. Design Standards

DEVELOPMENT AGREEMENT - 2

A8111001 DEVELOPMENT AGREEMENT2.doc

- A. Except as provided in this section, all setbacks, landscape standards, design and architectural standards, street and pedestrian standards, parking standards, floor area ratio and building coverage standards, storm water, sewer, water and other utility standards and all other planning or engineering standards applicable to the development of the Properties; all as provided for or identified on the approved CC zone, as amended.
- B. At least 75 percent of the width of any new or reconstructed first story building wall facing a public street or pedestrian way and 50 percent of the ground level wall area, which is defined as the area 9 feet above the grade, shall be devoted to interest-creating features, such as pedestrian entrances, reliefs, murals, landscaping, transparent show or display windows, or windows affording views into office or lobby space.
- C. Buildings in all future developments on the Properties shall be located at or near the lines demarcating setbacks from public streets; parking areas shall be located behind the buildings, away from public streets, to the extent possible. Primary ground floor building entrances shall have an entrance oriented to pedestrian-oriented streets, plazas, or parks. The building may also have other entrances as long as direct pedestrian access is provided from all entrances.
- D. New development on the Property shall provide a continuous, 20-foot-deep landscaped front yard (on Mill Plain) with three-foot-tall berm that is fully shrubbed.
- E. Use of the property shall mitigate noise and glare directed toward the neighborhood through the following:
 - 1. No outside display;
 - 2. No outside storage;
 - 3. Noise leaving the site will not exceed either the City's acoustic standards or the ambient noise level (whichever is higher at the given moment);
 - 4. Service bays will not face adjacent residential-zoned property to the north.
- F. All activities shall be conducted within an enclosed building.

IV. Landscaping

- A. Landscape Buffer. A ten (10) foot landscape buffer is required in order to reduce negative interaction between the commercial uses and the residential neighborhood to the north:

Required Materials. One (1) tree is required per thirty (30) lineal feet of property or as appropriate to provide a tree canopy over the landscaped area. In addition, 6 foot high

shrubs are required to form a continuous sight-obscuring screen. Groundcover plants must fully cover the remainder of the landscaped area.

- B. Fully Sight-Obscuring Fence. Where complete visual separation is needed to protect abutting uses, and landscaping alone cannot provide that separation.

Required Materials. A fence or wall shall be six (6) feet high and one hundred percent (100%) sight-obscuring. Fences may be made of bricks, masonry or other permanent materials. The responsible official may approve and condition an alternative landscape design and buffer standard that is that reduces the negative visual and noise impacts.

- C. Landscape and Screening Standards for Storage and Equipment Areas.

1. Storage and equipment areas shall be screened from property used or zoned for residential purposes or a public road right-of-way. Storage areas include storage of solid waste and recyclables from the site and, where permitted, storage of goods, materials or equipment.
2. Rooftop and ground-level exterior equipment shall be screened from abutting property used or zoned for residential purposes or from an abutting public road right-of-way.

- D. Tree Selection. Trees may be deciduous or evergreen. The required tree height shall be measured from the ground level at final planting to the top of the tree.

1. Required deciduous trees shall be fully branched, have a minimum caliper of two (2) inches, and a minimum height of eight (8) feet at the time of planting.
2. Required evergreen trees (other than street trees) shall be fully branched and a minimum of six (6) feet high at the time of planting.
3. If the responsible official decides reducing the minimum size of trees will not detract from the desired effect of the trees, the minimum size of trees may be reduced if the applicant submits a written statement by a landscape architect registered in Washington or expert in the growing of the tree(s) in question certifying that the reduction in size at planting will not decrease the likelihood the trees will survive.

V. Access

- A. Developments on the subject parcels shall be designed to maximize compatibility with and minimize transportation impacts on the adjacent neighborhood and Mill Plain Boulevard.
- B. Developments on the Properties shall provide continuous access across each Lot comprising the Properties, such that all Lots comprising the Properties shall have access

to both Mill Plain Boulevard and SE 148th Avenue, whether and upon development, redevelopment, additional site development, or expansion of an existing structure. The cross access ways shall not be built adjacent to Mill Plain Boulevard, and shall be designed to accommodate both pedestrian and vehicular site-related traffic. (See Cross Circulation Agreement).

C. No more than two direct access ways to Mill Plain Blvd shall be permitted from the Properties. These access ways may be joint driveways with direct access to two or more parcels.

D. Parcel 167676-000 shall take direct access from 148th Avenue only.

VI Traffic Circulation /Improvements

There is approximately 80 feet width right-of-way and approximately 60 feet of pavement along SE 148th frontage of the Properties. Sadri and Yu agree to the following improvements with the contingency that Yu does not pay for any of the improvements listed below in this section. Improvements shall be the responsibility of Sadri or the developer of the property:

A. S.E. 148th Avenue north of Mill Plain Boulevard along the frontage of the Properties is designated as a neighborhood circulator. Additionally, the intersection is limited to right-in/right-out. Therefore, 60 feet of pavement is not needed. It shall be modified to 26-feet to allow two travel lanes and no parking on either side of the road.

B. To accommodate the turning radius of large trucks entering 148th Avenue from Mill Plain, a right turn lane meeting WSDOT design standards is required.

C. The right of way width can be reduced from current approximately 80 feet down to 54 feet. The applicant could request a right of way vacation of approximately 13 feet on each side of the road. Right of way vacations are processed as a separate application and are subject to City Council approval.

D. The right of way for SE 148th Avenue can be 54 feet, which will allow 26 feet of roadway, 8 feet of landscaping strip and 6 feet of sidewalk on each side of the road.

E. A median with neighborhood sign shall be built to indicate that the vehicles are entering a residential neighborhood.

F. A total of two driveways will be allowed, one on each side of the road. The driveways will be required to be placed as far north as possible and need to be built as per City of Vancouver Standards. The driveways shall align with each other.

G. The driveways shall be built in a manner that would minimize or discourage cut-through traffic through the neighborhood along 5th Street.

1. The driveway for the western property shall be built to allow a right-in/right-out and a left-in/no-left-out.
2. The driveway for the eastern property shall be built to allow a right-in, a left-turn-in, and a left-only out.

VII. Miscellaneous

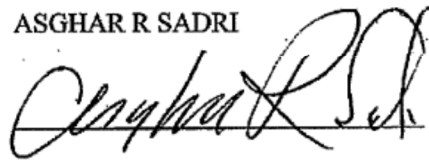
- A. Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the parties' rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this non-waiver clause.
- B. This Agreement shall be construed with, and governed by, the laws of the State of Washington. The parties agree to venue in the Superior Court for Clark County, State of Washington, to resolve any disputes that may arise under this Agreement.
- C. If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.
- D. Binding on Successors and Recording: This Agreement is assignable and shall run with the land and be binding upon and insure to the benefit of the parties, their respective heirs, successors and assigns. This Agreement shall be recorded.
- E. Each of the recitals contained herein are intended to be, and are incorporated as, covenants between the parties and shall be so construed.
- F. This Agreement may only be amended by mutual agreement of the parties.

DATED this 1st day of December 2008.

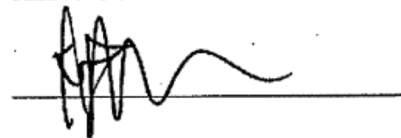
CITY OF VANCOUVER, WASHINGTON


Pat McDonnell, City Manager

ASGHAR R SADRI



KEN J YU



ATTACHMENT E – COMMENTS RECEIVED

From: Ken Yu [mailto:kalydesigns@yahoo.com]
Sent: Friday, April 27, 2018 12:39 PM
To: Snodgrass, Bryan
Cc: Karl Seid
Subject: 148th Ave DA removal

Hi Bryan,

It just brought to our attention that removing the DA, could also remove the access agreement between the properties. This will not be in our interest, we think that the access agreement shall remain. It will benefit the public to make sure the customers can access from one shopping center to the others without going back to Mail Plain, and traffic will be smoother if all properties has access to 148th. Please let me know if access agreement will be remain.

Ken Yu
Kaly Construction & Designs, Inc.
503-348-0712

EXHIBIT 2 – APPLICANT SUBMITTAL AT PLANNING COMMISSION HEARING



LANDERHOLM

Legal advisors. Trusted advocates.

Steve C. Morasch
805 Broadway Street
Suite 1000
PO Box 1086
Vancouver, WA 98666

T: (360) 558-5912
T: (503) 283-3393
F: 558-5913
E: stevem@landerholm.com

May 22, 2018

City of Vancouver Planning Commission
City Hall
415 West 6th Street
Vancouver, WA 98660

Re: May 22, 2018 Planning Commission Public Hearing on Sadri/ Yu Mill Plain/148th Avenue Development Agreement rescission request

Dear Planning Commission:

We represent the applicant (Sadri) requesting rescission of the above referenced Development Agreement. We are submitting this letter to the record in response to the staff report. We agree with retaining the following portions of the Development Agreement, as recommended on page 5 of the staff report:

- Access provisions (Section V A and B) requiring all properties to provide access to 148th Avenue. As noted retention of this provision has been requested by Ken Yu, owner of property within the proposal area.
- Miscellaneous boilerplate legal provisions (Section VII).

However, we disagree with staff's proposal to retain the Prohibited Uses (Section I of DA) or the Design Standards (Section III A, B and C). These provisions are now over 15 years old and no longer reflect the needs of the area now that Mill Plain has developed as a commercial corridor. Furthermore, the City's code and comprehensive plan have been updated to reflect that change, with most of the other properties along this corridor having been rezoned to CC and the code now contains more refined tools to deal with these issues.

Staff has expressed concern about allowing the full range of permitted outright uses in the CC zone on the Sadri property because of the existing traffic volumes and limited right-in-right-out access on Mill Plain. However, that concern would apply to any property fronting Mill Plain and there is nothing to distinguish the Sadri property from the numerous other properties along the Mill Plain corridor that now have the same CC zoning.

Issues related to traffic volumes and access are dealt with during the development application review process, so that is not a basis to retain the Prohibited Uses provisions. Whatever uses the applicant may propose in the future will still need to meet concurrency and all other transportation and access related regulations in the City's development ordinances.

Now that the vast majority of the other properties along this section of Mill Plain have been rezoned to the same CC zone, the original reason for the Prohibited Uses provision of the DA no

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longer exists, and it is unfair to continue burdening this single property with restrictions that do not apply to any of the neighboring CC zoned properties up and down the Mill Plain corridor.

At some point those other properties along the Mill Plain corridor were also rezoned to CC and at that time the City did not feel the need to impose additional use restrictions on those properties. Therefore, there is no longer any reasonable reason to continue outdated 15 year old use restriction on the Sadri property. The Sadri property should be given equal treatment with the numerous CC zoned properties that were rezoned to CC more recently up and down the Mill Plain corridor.

The same arguments apply to the Design Standards, and the applicant is requesting those provisions be removed. However the Prohibited Uses section is the applicant's biggest concern since that section is preventing the property from being developed for marketable uses. Therefore, we request that the DA be modified to remove these provisions and put the applicant on the same equal footing as all of the other neighboring properties up and down the Mill Plain corridor.

Originally, the Sadri property had cross access easement to the traffic signal at SE 155th Avenue but voluntarily gave up that access so the City could build the Police Station and park, which we believe made a good contribution to the neighborhood. However, without that access, the additional restriction on uses in the Prohibited Uses section of the DA is putting a significant strain on the ability to develop the property. We therefore request removal of that provision to enable development of these properties on equal terms with the other CC zoned properties along the Mill Plain corridor.

Finally, to the extent the Planning Commission desires more traffic analysis of the impacts of potential uses on Mill Plain, the applicant would be willing to conduct further traffic study of the SE 148th public access road that connects the neighborhood to the north with Mill Plain to determine whether that access road could be vacated and whether that would alleviate any concerns. Based on initial consultation with the applicant's traffic engineer, Hann Lee of H. Lee & Associates, it appears this may be likely, and the applicant is willing to study the issue, which is expected to take about 6 weeks, so we could come back later this summer for another hearing.

We don't believe additional traffic analysis is necessary in order to remove the Prohibited Uses provision to enable development of these properties on equal terms with the other CC zoned properties along the Mill Plain corridor, but the applicant is willing to take that step if that is something the Planning Commission would like to evaluate before making a decision.

Sincerely,

LANDERHOLM, P.S.



STEVE C. MORASCH

Attorney at Law

SCM/jsr

SADA01-000054 - Document in ProLaw

EXHIBIT 3 – MAY 21, 2018 PLANNING COMMISSION PUBLIC HEARING DRAFT MINUTES

Staff Report

Bryan Snodgrass introduced Kristian Corban, Development Review Planner for the City of Vancouver, who has advised staff in the past with development code interpretations, and Eric Hahn, Civil Engineer for the City of Vancouver, to advise on transportation issues. Bryan announced that the City Council work session on this matter has recently been rescheduled to July 2, 2018, with a public hearing on August 20, 2018.

Snodgrass introduced the site and surrounding uses. The site is located on Mill Plain Boulevard at 148th Avenue. It encompasses five properties. To the north is a single family residential neighborhood. Immediately to the east is a police precinct and to the south is a senior living facility. There is a storage facility and credit union to the west. There is previous development already on the site, including a tavern and a small mini-mall. The existing zoning is Community Commercial (CC), rezoned in 2002 from office and multifamily residential. As part of the rezone, additional requirements were established. Those requirements were amended in 2004 and 2006, and in 2008 they were converted to Development Agreement (“DA”). The current DA is included within the Staff Report, which was submitted to the Record and may also be viewed on the Planning Commission website. Snodgrass summarized the prohibited uses, building orientation, and road access requirements currently outlined in the DA.

Snodgrass stated that the DA release has been advertised in a manner similar to annual review and rezones, including mail notification to residences within 500ft of the site, newspaper publication in *The Columbian* and on-site postings. He stated that he received only one comment. It was from one of the property owners within the development who was a signatory to the application, and that comment is included in the staff report. It requests retention of one of the requirements for coordinated access across the five properties to 148 Street. Snodgrass commented that previous hearings on the matter have generated limited testimony as well.

Snodgrass summarized the staff recommendation to remove some but not all of the provisions of the 2008 development agreement, retaining sections I, III.A, III.B, III.C, V.A, V.B, and VII, which pertain to current features of the property or current policy objectives, specifically requirements for coordinated access, use limitations and requirements for building frontages similar to the existing mini-mall. Snodgrass explained that the Planning Commission is asked to review this DA because the 2008 process involved a Planning Commission hearing, thus establishing precedent for this particular DA. He then turned to the Commissioners for questions.

Chair Paulsen asked for clarification as to why staff recommends leaving the use prohibitions listed in section I in place, as opposed to full rescission of the DA as the applicant has requested. Snodgrass answered that the recommendation to retain section I is driven primarily by the limited access to the site and secondarily by the desire to better utilize the economic potential of Mill Plain Blvd as a transit corridor. The access to the site is further restricted by a median running along Mill Plain Blvd at that location, making it desirable to limit uses that would presumably generate more traffic.

Commissioner Harroun expressed his inclination to encourage flexible uses of this site, prioritizing benefits to the public and transportation over concerns about potential traffic increase, for example allowing a drive-through business but not a storage facility. He encouraged lessening the use restrictions to make this site a more economically viable project for the developer.

Applicant Testimony

Steve Morasch from Landerholm Law Firm represented the applicant, Asghar Sadri. He distributed a letter that has been submitted to the record and gave a brief testimony. He stated that the applicant had requested a full rescission of the DA, but in response to the staff report and particularly into response to the comment received from Kevin Yu, a property owner within the site, the applicant is revising the request and is perfectly happy to keep the access provision. The applicant's main concern is section I on prohibited uses. They would also prefer to remove the design provisions but those are a lesser concern. Morasch cited that the property has remained undeveloped for 15 years and also the treatment of other nearby CC properties, rezoned at a later time and without further restrictions, in his argument for rescission. He also expressed that he felt the City's required development review process would be an adequate solution to address increased traffic as the applicant would have to show compliance with concurrency and access spacing standards as part of that process, and that it was unnecessary to maintain the DA on that basis. Morasch added that the applicant was prepared to provide further analysis of the traffic issue at a later date, if desired by the Planning Commission.

Commissioner Harroun asked the applicant's representative Steve Morasch of the most problematic prohibited uses from Section I. Morasch reiterated that the applicant would like to have section I removed in its entirety but offered to confer with the applicant during the next presentation.

Hann Lee of H Lee & Associates, the applicant's traffic engineer, agreed that the concurrency requirements within City code already dictate what can and cannot be done along the Mill Plain Blvd corridor and that current regulations already address the demands of the area well. He addressed the importance of studying the potential impact to the neighborhood to the north. He suggested discussing whether 148th Avenue should remain connected to the neighborhood or limited to pedestrian and bike access only, with no vehicular traffic. He indicated that closing it off would prevent commercial intrusion into the neighborhood traffic, a common concern of neighbors, and he suspected that it would not have a significant impact on the neighborhood because the intersection of Mill Plain Blvd and 148th Avenue is already right-turn only, both entering and leaving the neighborhood, due to the median along Mill Plain Blvd. The Commission did not have questions for Lee at the conclusion of his statement.

Morasch returned from conferring with the Applicant and reaffirmed that the Applicant's preference is to rescind the entirety of Section I. Additionally, he pointed out that many of the proposed uses would remain prohibited or require conditional use permitting by the CC zoning designation, including many types of manufacturing.

Public Testimony

Chair Erik Paulsen opened the floor for public testimony. Commissioner Atkins asked staff for clarification regarding the timeline of the rezoning of surrounding properties, and what uses listed under Section I would remain prohibited by a CC designation. Snodgrass suspected that some of the surrounding properties on Mill Plain Blvd were previously commercial given their size, and that others were most likely zoned office and multifamily residential, like the site in question had been. He also suspected that the residential neighborhood to the north did pre-date the rezoning, given the appearance of the structures. It was determined that there would be a very limited allowance for manufacturing, that self-storage facilities would be allowed, that a gas station would be allowed with limited use, and that motor vehicle service and repair would be permitted if contained entirely within the building.

Commissioner Harroun asked staff if encouraging transit-oriented development of the Mill Plain Avenue corridor was the guiding principal behind his recommendation. Snodgrass clarified that the foremost principal was to restrict uses that would increase the traffic to undesirable levels, emphasizing that those uses

may be legally permitted under the current zoning and code, but are not allowed under the existing DA. He added that ensuring a more intensive use of land, in terms of employment and economic return along the transit corridor, was his second guiding principal.

Receiving no public testimony, Chair Paulsen closed Public Testimony.

Commission Deliberation

Commissioner Atkins stated that he was in favor of the restrictions and expressed concerns that the home owners in the neighborhood to the north presumably bought their properties with the neighboring zones and resulting restrictions in mind. He was concerned that neither staff nor the commission had heard feedback from those neighbors. He summarized by stating he was supportive of prohibiting usages that do not take advantage of the existing investments in infrastructure.

Commissioner Mattoon expressed that she takes this part of Mill Plain Blvd. every day, and felt that the findings of the traffic studies done so far were in accordance with her personal experience of the area. She described some of the businesses nearby, including mini-storage facility, a credit union, a muffler and brake shop, and a carwash, and questioned the extent to which releasing the full DA as opposed to staff's recommendation, would change the character of the corridor and impact nearby residents.

Commissioner Ledell noted that the section of Mill Plain Blvd in question is primarily a commercial corridor and as such, given the list of uses potentially allowed by the staff recommendation, there would not be a significant deviation in appearance if this recommendation was approved.

Commissioner Harroun expressed that he was inclined to retain the prohibitions as proposed in the staff's recommendation, but was torn because he understood the applicants desire to be treated equally relative to neighboring properties. He concluded by stating that ultimately he was opposed to releasing the DA in its entirety as the restrictions were voluntarily agreed to, and he felt they were in line with the City's long term goals for the character of the area.

Commissioner Lee stated that he was in agreement with Commissioner Mattoon. He pointed out that in the last 15 years this site has remained undeveloped, while in contrast the surrounding area, particularly the site of the former airport, has seen tremendous development with little or no character standards. He stated that it was his preference to release the DA, including section I pertaining to restricted uses, but retain sections III.A, III.B, III.C, V.A, V.B, and VII as suggested by staff.

Commissioner Mattoon observed that, even if the DA restrictions were removed, she would want City Council to envision the kind of thoroughfare it wants Mill Plain Blvd. to be in the future, and how that reflects on our community. Additionally, she asserted that unless they were going to enforce the restrictions equally on new and existing business in the CC zone, then holding the applicant to these restrictions would not make a large impact on the area, and would further delay economic return for the applicant.

Commissioner Harroun stated that he agreed with Mattoon from a builder's perspective, but from a long range planning standpoint, he felt obligated to consider the 100-year impact of these decisions. He felt that the need for density along Mill Plain Blvd. as a heavily invested transit corridor would better fit the future needs of the growing population and that was his main priority in making this decision.

A motion was made by Vice Chair Ledell to forward a recommendation to the City Council to remove some but not all of the provisions in the 2008 DA retaining sections I, III.A, III.B, III.C, V.A, V.B, and VII, and was seconded by Commissioner Atkins. Commissioner Ledell and Commissioner Atkins both expressed that the staff recommendation was a sufficient compromise between removing outdated restrictions from the previous agreements and maintaining the spirit of current and future planning for the area.

Commissioner Lee disagreed, stating that he preferred to remove section I as well on the basis that many of the uses restricted by section I are already established on nearby sites and that neighboring businesses such as a large mixed use development, a hotel, and a senior living facility, constitute a larger traffic impact than the businesses currently restricted by section I.

Commissioner Atkins clarified that traffic impacts were not his main concern, rather encouragement of more intensive use of the site given its proximity to a major transit corridor.

Commissioner Mattoon expressed that it did not feel fair to hold these property owners to a separate set of standards to set to address the aesthetics of the area, rather she recommended that the City Council should consider what Community Commercial means for the City of Vancouver as a zoning category in general going forward.

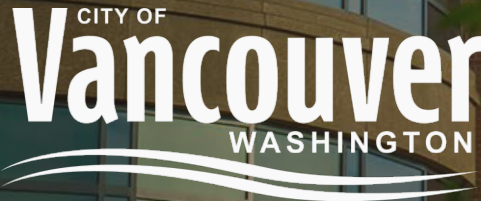
Commissioner Harroun agreed that Community Commercial overall needed to be examined; however, that did not preclude the commission from having the opportunity to preserve some areas for better uses and that ultimately he was supportive of the motion.

Chair Paulsen indicated that he was supportive of the motion as well, compelled by the guiding principles staff had outlined. He conceded that there was merit to the arguments about fairness and consistency with the CC zoning, but he was aware of the fact that select areas have additional conditions because the City has specific issues or aspirations in mind. He gave the planned implementation of bus rapid transit in this corridor and the resulting transit-oriented development that is anticipated as an example. He concluded that to have this land subject to previously entered legal agreement, fair or unfair, gives the City the benefit of being able to potentially facilitate that kind of development for the long term.

The motion was approved by a 4-2 vote, with Commissioners Lee and Mattoon against.

Sadri Mill Plain/148th Avenue Development Agreement rescission proposal

VANCOUVER
CITY HALL



July 2, 2018

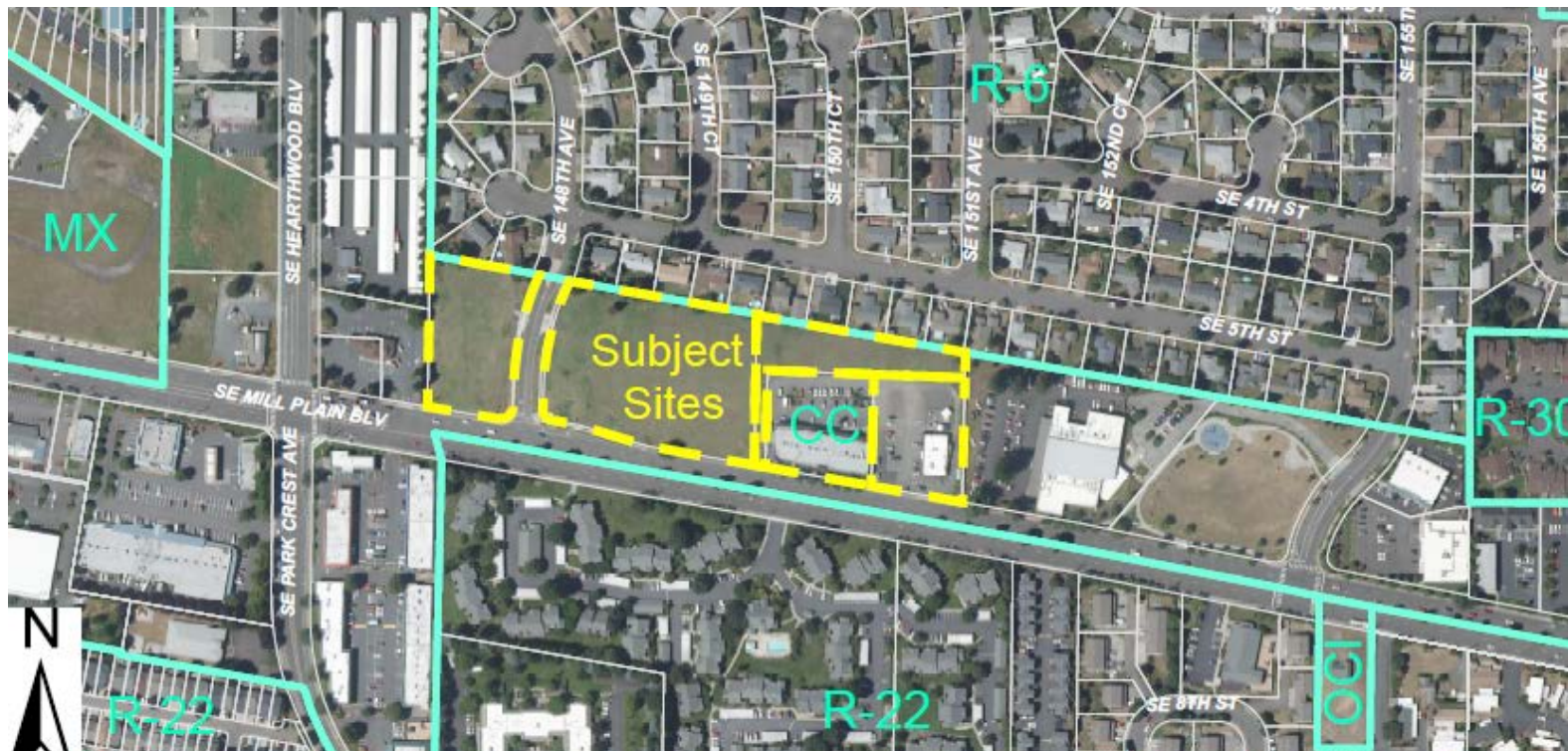
Vancouver City Council Work Shop

**Bryan Snodgrass, Principal Planner, Community
and Economic Development Department**

Presentation Overview

- Staff presentation of proposal and Planning Commission recommendation.
- Council questions and identification of issues or additional information needed prior to public hearing
- City Council first reading August 13, public hearing August 20.

Proposed Site Includes 5 Properties



Proposed Site Includes 5 Properties



Background Information

- Existing Community Commercial zone established by 2002 concomitant rezone agreement. Current site and two properties further east rezoned from office and multi-family residential, with requirements prohibiting several retail uses, applying design criteria, and facilitating access to 148th Avenue while limiting access to Mill Plain.
- Follow up amendments in 2004 and 2006 primarily shrank the geographic scope of the agreement to the current five properties.
- Development of on-site mini-mall in 2007.

Background Information (cont.)

- 2008 decision converted requirements into current D.A., and expanded retail use allowances.
- Spring 2017 site plan pre-application submitted on westernmost of DA properties for storage use which is prohibited
- 2018 complete application submitted for removal of DA

Existing D.A. requirements

- Uses: Drive thru, 24-hour services, car wash, auto body, auto sales or rental, gas stations, outdoor storage or other outdoor activities, bulk sales, self-serve storage, industrial services, manufacturing prohibited.
- Building Orientation: Must be located near street setback lines, with parking behind and entries oriented to streets or pedestrian areas. Windows and interest gathering features on street facing walls.
- Road Access: Shared access required in rear of properties to 148th Ave. No more than two access points to Mill Plain. No Mill Plain access for westernmost property.

Existing D.A. requirements (cont.)

- Road Improvements: Various requirements for construction of 148th Avenue that have been met.
- Landscaping and Screening. On Mill Plain, landscaped 20-foot deep front yard with 3-foot shrubs required. In rear of properties, landscaped 10-foot deep buffer with continuous 6-foot high shrub or fence screening and trees no more than 30-feet apart required. Any storage and equipment areas shall be screened from residences to the north.

Proposal

- Applicant requests rescission of D.A., allowing development pursuant to CC zone and other city standards without additional restrictions.
- Applicant argues that DA restrictions are unique among the many similarly zoned commercial properties along Mill Plain Blvd., have stifled development, and are redundant of existing City regulations.
- At the May 22 Planning Commission hearing applicant agreed to accept DA requirement for coordinated access to 148th Avenue, and focused objections on the use prohibitions.

Input

- No public testimony offered at May 22 Planning Commission hearing, which had been noticed through hardcopy mail to properties within 500 feet, newspaper publication, and site postings. East Mill Plain Neighborhood Association recognized in 2017 mistakenly not notified.
- One written comment from on-site property owner Ken Yu requesting retention of the D.A. requirement for coordinated access to 148th Street.
- Staff presented at June 12 East Mill Plain N.A. meeting. Attendees present voted in support of retaining D.A. use prohibitions.

Planning Commission recommendation

- By 4-2 vote the commission supported the staff recommendation to keep D.A. provisions which address particular current features of the property or current policy objectives. These include requirements for coordinated access to 148th Avenue from all properties in the rear; use limitations; requirements for Mill Plain building frontage similar to the existing mini-mall.
- Based on findings in the staff report, sections I, III.A, III.B, III.C, V.A, V.B, and VII are recommended for retention.

Questions and Discussion

- Bryan Snodgrass, Principal Planner, Community and Economic Development Department
- bryan.snodgrass@cityofvancouver.us, 360-487-7946

Shoreline Master Program Amendments to Chapters 4, 6, and 8

VANCOUVER
CITY HALL



July 2, 2018

Vancouver City Council
Workshop

Rebecca Kennedy, Long Range Planning Manager

Jennifer Campos, Principal Planner

Mark Person, Senior Planner

Presentation Overview

SMP overview and purpose

Review proposed SMP amendments related to:

- Replacement of overwater structures and buildings
- Joint-use docks
- On-water residences
- Live-aboard boats

Shoreline Master Program

- Program management resides in Long Range Planning under Environmental Planning work program
- Program implementation is within Development Review under Title 20
- Program was last updated in 2011 per RCW
- City will be required to complete a periodic review by June 30, 2020

Shoreline Master Program



Foster reasonable
and appropriate uses

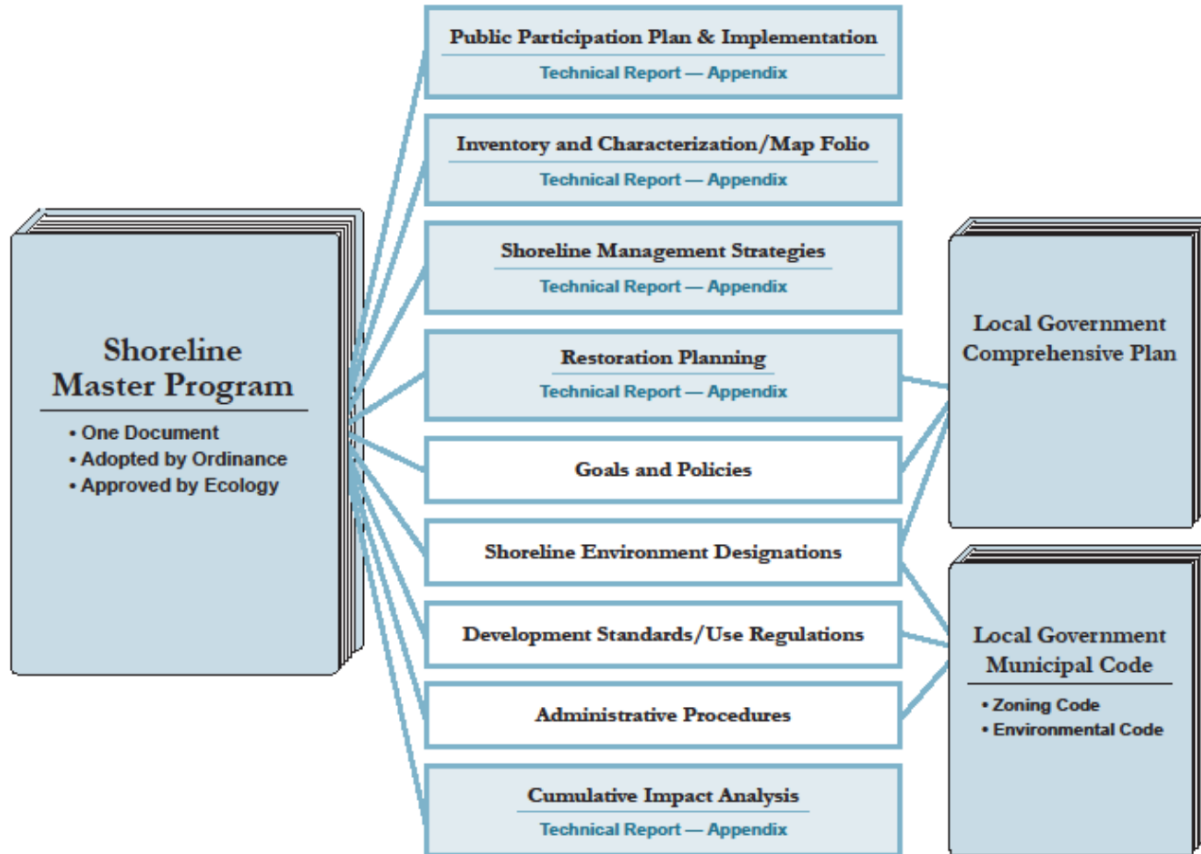


Protect natural resources



Promote public access

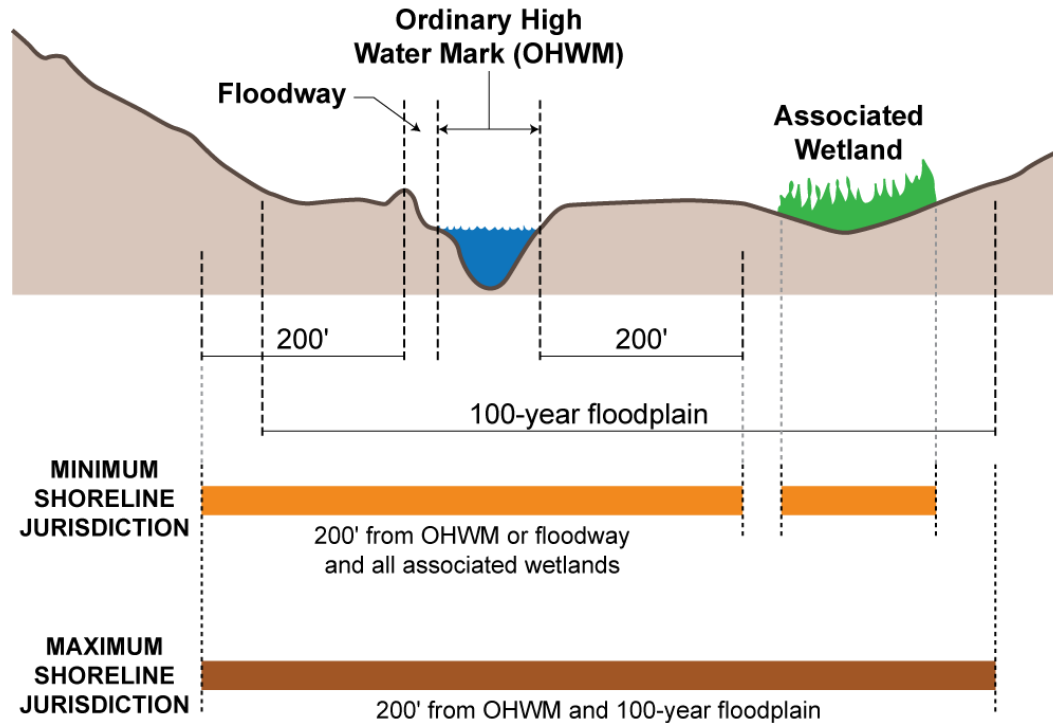
Shoreline Master Program



The logo for the City of Vancouver, Washington, featuring the word "Vancouver" in a large, bold, blue sans-serif font, with "CITY OF" in a smaller font above it and "WASHINGTON" below it. A stylized blue wave graphic is positioned at the bottom.

Shoreline Master Program

River Shorelines



Shoreline Master Program

- | | | |
|--------------------|----|--|
| <u>ECOLOGY</u> → | 1. | Develops guidelines |
| <u>LOCAL GOV</u> → | 2. | Develops Shoreline Master Programs |
| <u>ECOLOGY</u> → | 3. | Approves Shoreline Master Programs |
| <u>LOCAL GOV</u> → | 4. | Issues shoreline development permits,
recommends conditional use permits and
variances |
| <u>ECOLOGY</u> → | 5. | Reviews shoreline development permits,
approves conditional use permits and variances |
| <u>LOCAL GOV</u> → | 6. | Enforces permits |

Replacement of Overwater Structures and Buildings

Current Issues:

- A key element of the City of Vancouver's City Center Vision (VCCV) Plan is the redevelopment of the Columbia West Renaissance District
- The Port of Vancouver's Waterfront Development Plan identified a key mix-used development at the Terminal 1 site



Replacement of Overwater Structures and Buildings

Current Issues (cont.):

- The pier and building are also in the identified right-of-way zone for a replacement I-5 bridge
- While replacement of the pier would likely qualify as normal repair per WAC 173-27-040(2)(b), the existing building on this site would need to be relocated
- The building is a non-conforming building, and the relocation of this building would constitute a new overwater structure for water-enjoyment use

Replacement of Overwater Structures and Buildings

Proposed Amendments:

- Add a Section to 4.3.1.4 (Management Policies for the Aquatic definition) to allow for existing over-water structures in the Aquatic designation to be used for water related and water enjoyment uses
- Amend Table 6-1 (Shoreline Use, Modification and Development Standards) to allow water related and water enjoyment uses for structures in the Aquatic designation on the Columbia River between the I-5 and BNSF railroad bridges as a conditional use and add height limits for the same uses

Replacement of Overwater Structures and Buildings

Proposed Amendments (cont.):

- Add a new section to 6.3.4(8) (Commercial Uses) to provide specific requirements structures would need to meet in the Aquatic designation on the Columbia River between the I-5 and BNSF railroad bridges

Joint-use Docks

Current Issues:

- The current definition of joint-use dock does not specifically state the parcels with access to the joint use dock have to be contiguous to each other
- It also does not indicate if the parcels must be residential, or if the lots are capable of being developed in compliance with the zoning ordinance or the SMP



Joint-use Docks

Proposed Amendments:

- Amend Section 6.3.3.4(6) (Joint Use and Community Moorage Facilities) to clarify new joint-use docks and piers may be allowed only when serving two or more contiguous residential legal lots of record
- Amend Chapter 8 definitions to include an amended definition of Dock, Joint Use, to comply with the proposed revision to Section 6.3.3.4(6).

On-water Residences

Current Issues:

- Effective September 7, 2017, certain definitions were amended in WAC 173-26-020 that added definitions of floating homes and floating on-water residences
- The revisions are intended to clarify that certain floating structures are considered floating on-water residences and not vessels



On-water Residences

Proposed Amendments:

- Amend Sections 6.3.11.1 (Residential Development) and 6.3.11.2 (Floating Home Development) to incorporate the provisions of WAC 173-26-241(3)(j)(iv) relating to the prohibition of on-water residences
- Amend Chapter 8 definitions to include an amended definition of floating on-water residence, to comply with WAC 173-26-020(18)

Live-aboard Boats

Current Issues:

- The Washington SMA and the Vancouver SMP do not allow on-water residences, but do allow live-aboard boats within marinas
- The intent of the state law and the City's SMP is to allow a limited number of live-aboard boats within marina areas and prohibit floating homes
- Clarity is needed with the definition so that all parties are clear on what constitutes a live-aboard vessel

Live-aboard Boats

Proposed Amendments:

- Amend Chapter 8 definitions to provide clarity on what constitutes a live-aboard boat



Next Steps/Timeline

- Planning Commission Workshop – February 27, 2018
- SEPA process completed in February - March
- Planning Commission Hearing – April 24, 2018
- City Council First Reading – July 9, 2018
- City Council Public Hearing – July 16, 2018
- Final review and approval by Department of Ecology – June 2018

Questions and Discussion

- Jennifer Campos, Principal Planner
Jennifer.Campos@cityofvancouver.us
- Mark Person, Senior Planner
Mark.Person@cityofvancouver.us

The Heights District Plan Update

VANCOUVER
CITY HALL



July 2, 2018

Vancouver City Council Workshop

Rebecca Kennedy, Long Range Planning Manager

Teresa Brum, Economic Development Manager

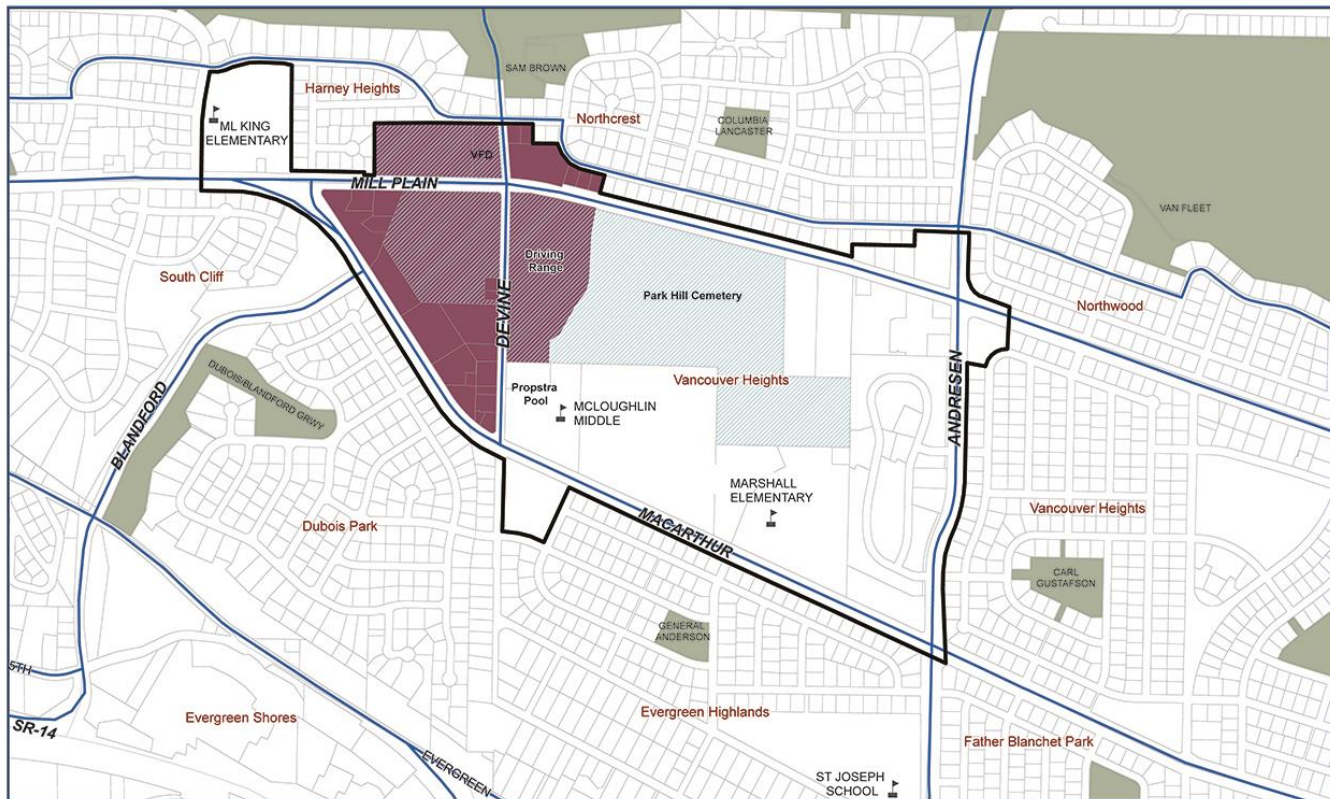
Presentation Overview

- Project goals, timeline & deliverables
- Community planning process to date
 - Phase I: visioning and outreach
 - Phase II: market & existing conditions analysis
- Ongoing outreach & engagement
- Next Steps

Prior Council Review

- June 5, 2017: Council authorized purchase of Tower Mall property and adopted development moratorium for 25-acre Tower Mall area
- July 17, 2017: Adoption of moratorium with additional findings of fact
- Nov. 20, 2017: Adoption of ordinance to extend moratorium for 6 months
- May 14, 2018: Public hearing to adopt moratorium extension ordinance, and update on planning process to date

The Heights District



The Heights District Plan: Project Goals

- Establish a vision for a **vibrant urban center**
- Catalyze additional **private development** in the District
- **Involve the public** in the planning / design process
- Include **affordable**, workforce and/or mixed-income housing
- Include accessible **public open space**
- Utilize innovative urban design and **sustainable development practices**
- Plan for the creative and functional **integration of transit**
- Increase **multi-modal connectivity** in the District uses



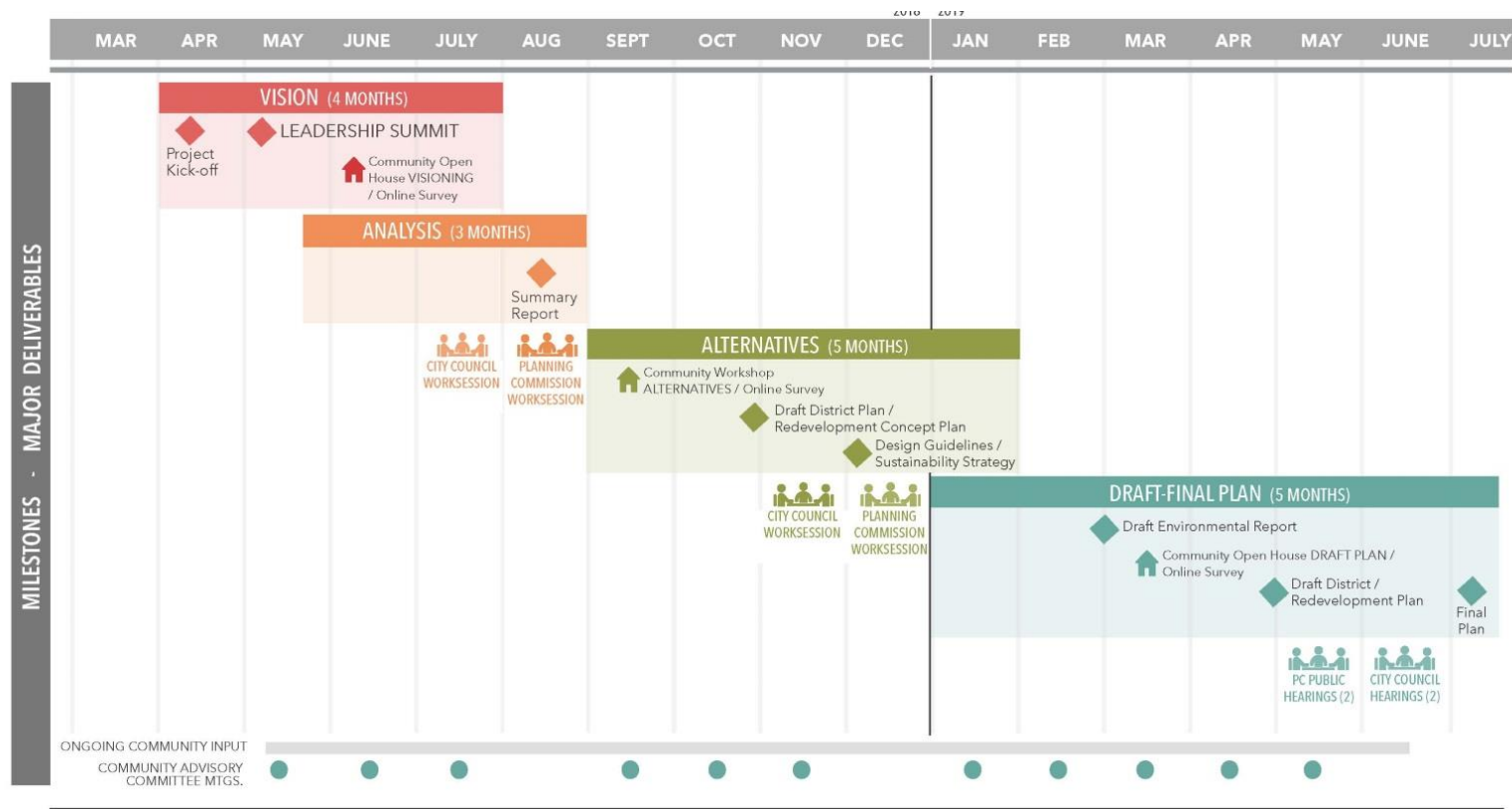
Heights District Plan: Consultant team



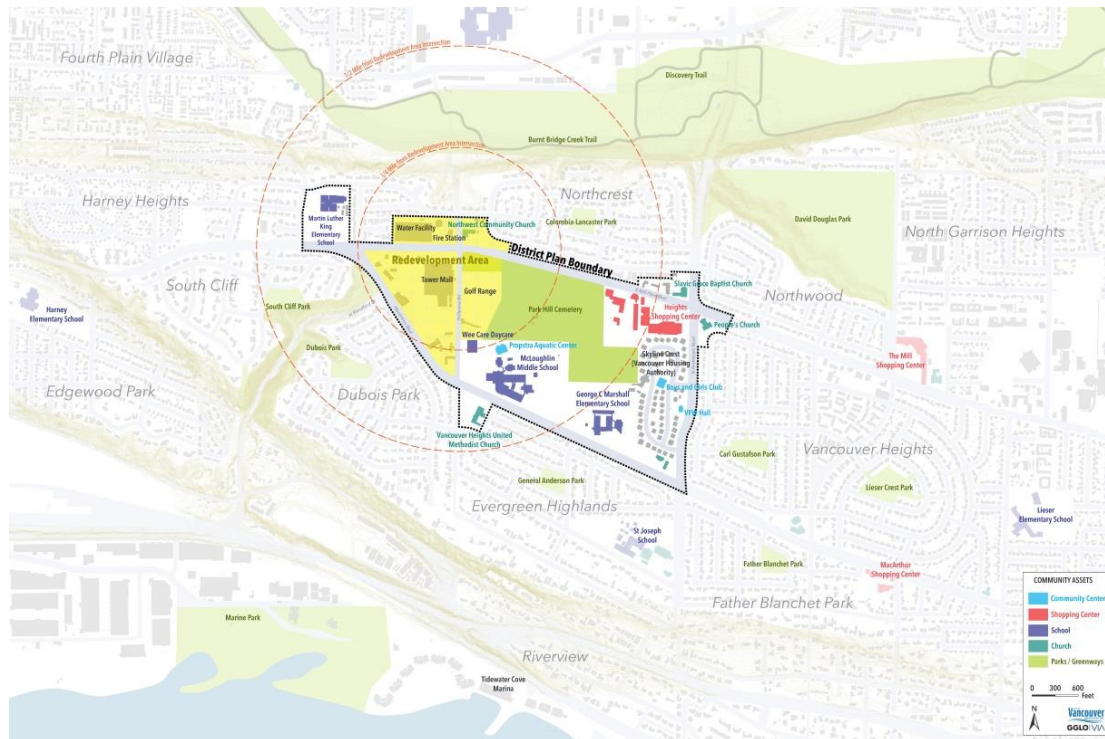
Heights District Plan: Project Deliverables

1. ***Subarea Plan for the 205-Acre*** Heights District that will include an overarching vision for the area, and make recommendations on design, land use, housing transportation, public space, and implementation priorities.
2. ***Detailed Redevelopment Plan*** for the 53-acre Tower Mall redevelopment area that will include a market analysis, feasibility study, phased redevelopment plan, and partnerships and implementation recommendations
3. ***Environmental Impact Statement:*** Planned Action SEPA Analysis that includes thresholds for a mix of uses and will enable expedited review of future development proposals.

Heights District Plan: Timeline & Phasing



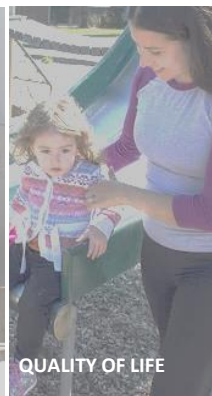
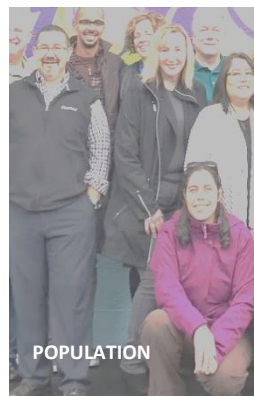
Phase I: Visioning



Heights District Plan: Leadership Summit



Heights District Plan: Leadership Summit



- How do you identify (describe) your neighborhood?
- What excites you about your community and The Heights planning opportunity?
- What concerns do you have?
- List 3 key measures of success.

Heights District Plan: Leadership Summit

What are key community values?



Community Advisory Committee



Heights District Plan: Community Open House

THE HEIGHTS DISTRICT PLAN COMMUNITY OPEN HOUSE



Saturday, June 23, 2018 | 11 a.m. to 2 p.m.
McLoughlin Middle School Cafeteria | 5802 MacArthur Boulevard

Share your
ideas



Learn about plans
for The Heights



Voice your
concerns



CHANGES AHEAD!

The City has started a community planning process that will determine the future of The Heights District, located on Mill Plain Boulevard in central Vancouver.

Stop by to learn more and share your desires for new business, transportation improvements, parking and housing in the district.

Refreshments and children's activities provided.

QUESTIONS OR ACCOMMODATION REQUESTS?

Contact Andrea Pastor at:
360-487-7947 or
andrea.pastor@cityofvancouver.us



STAY CONNECTED:

WWW.CITYOFVANCOUVER.US/THEHEIGHTS

CASA ABIERTA PARA LA COMUNIDAD DEL DISTRITO THE HEIGHTS



Sábado 23 de junio, 2018 | 11 a.m. to 2 p.m.
Cafetería de la Escuela Secundaria McLoughlin | 5802 MacArthur Boulevard

Comparta
sus ideas



Aprenda sobre
los planes para
The Heights



Expresé sus
inquietudes



¡SE APROXIMAN CAMBIOS!

La Ciudad ha comenzado un proceso de planificación comunitaria que determinará el futuro del distrito The Heights, ubicado sobre Mill Plain Boulevard en la zona central de Vancouver.

Únase a nosotros para aprender más y compartir sus deseos sobre negocios nuevos, mejoramiento del transporte, estacionamiento y vivienda en el distrito.

Se proporcionarán refrigerios y actividades para los niños.

¿PREGUNTAS O SOLICITUDES DE ACOMODACIONES?

Contacte a Andrea Pastor al:
360-487-7947 o
andrea.pastor@cityofvancouver.us

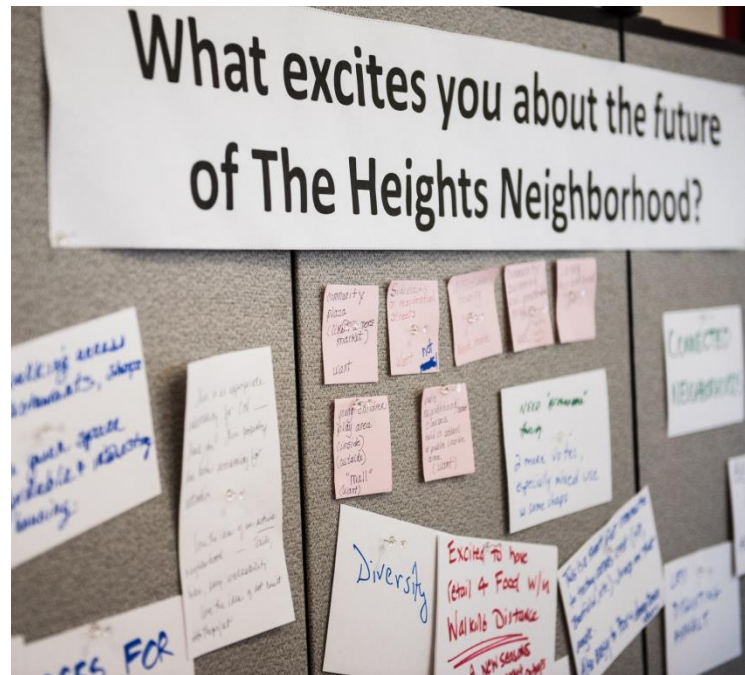


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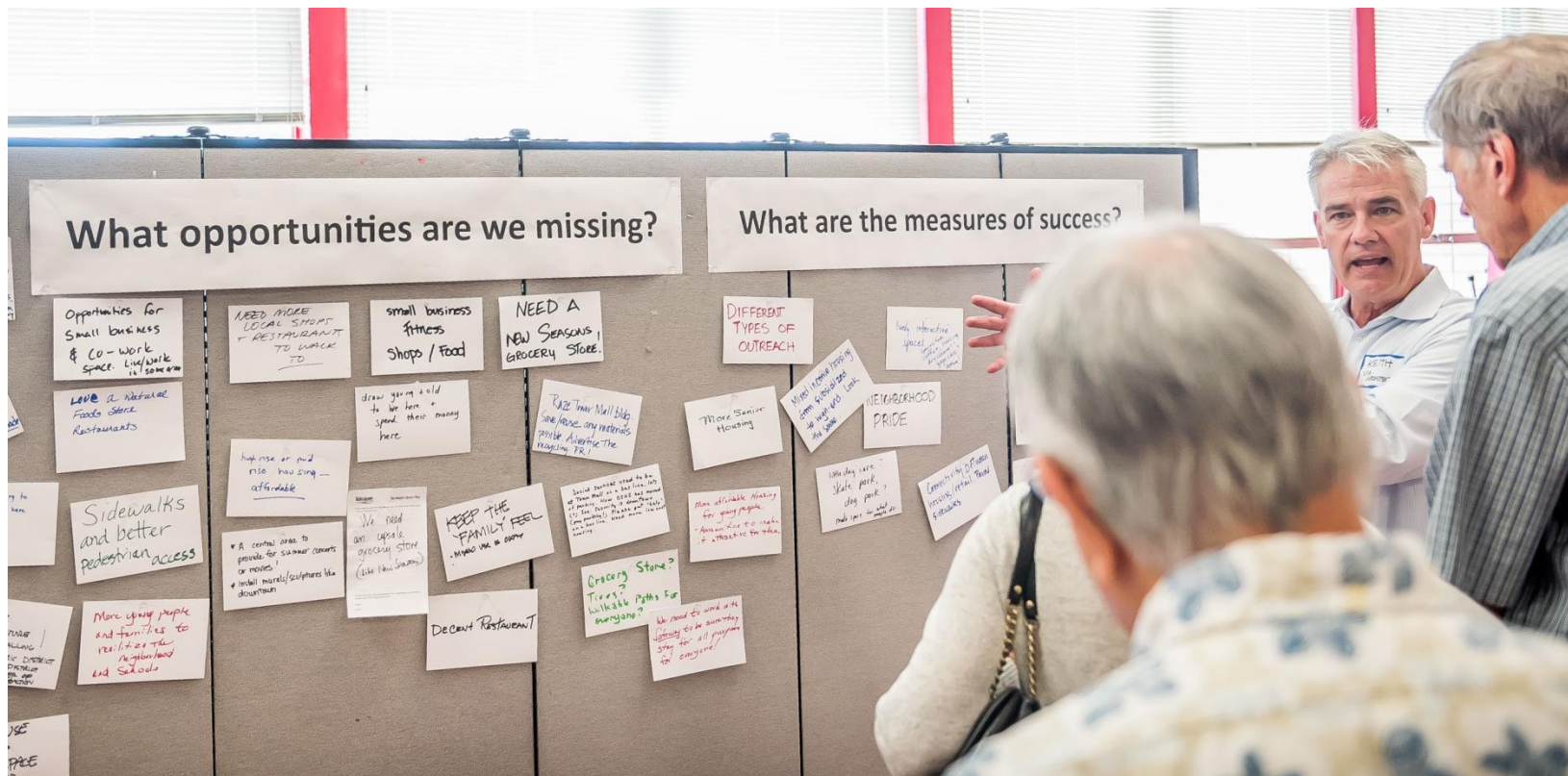
WWW.CITYOFVANCOUVER.US/THEHEIGHTS

Heights District Plan: Community Open House





Heights District Plan: Community Open House



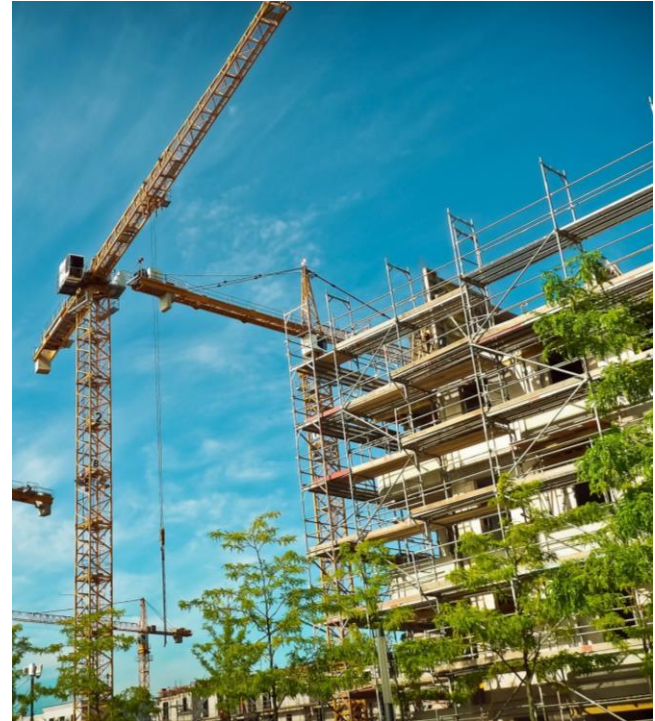
Phase II: Analysis



Market Conditions

Market Analysis

- Market Trends- retail, office, housing
- Household characteristics- income, composition, age
- Industry & employment growth
- Future population forecast
- Permit Data
- Demand for housing at various income levels
- Interviews with the development community



Market Conditions

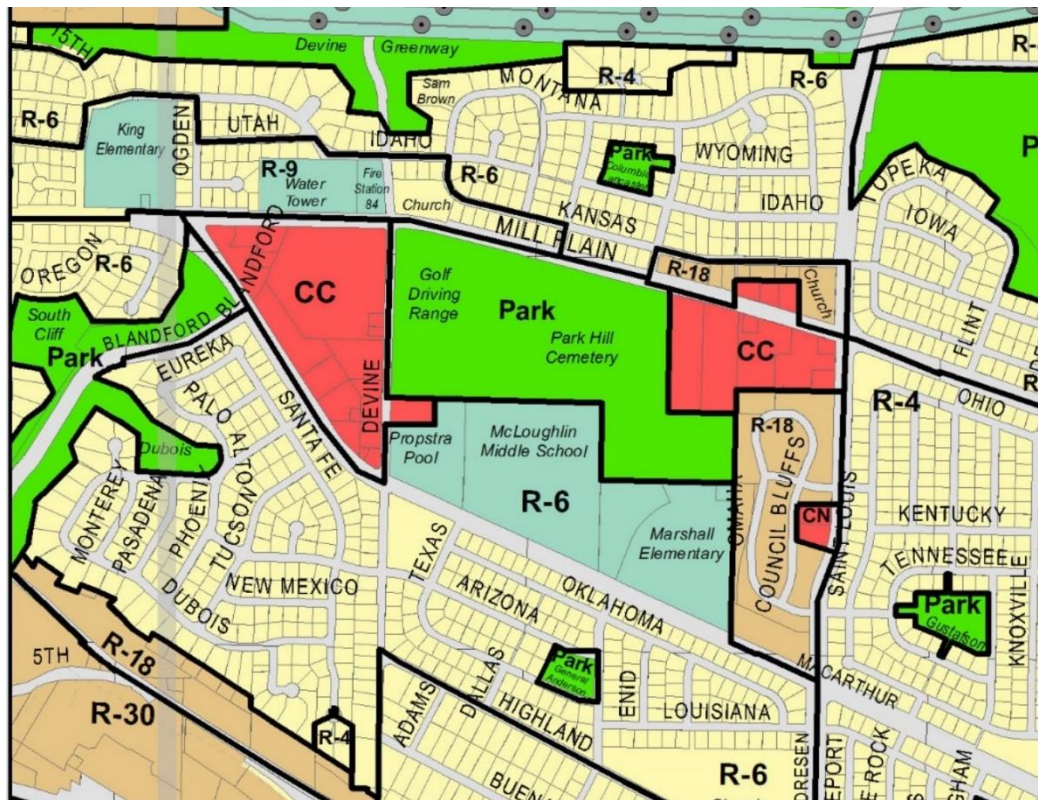
Market Observations

- Multifamily housing is a natural fit for The Heights and there is strong demand for housing at multiple income levels.
- Retail would be difficult on its own, but can play a supportive role and be successful as part of a mixed-use development.
- Office uses could also play a supportive role, but will not lead development.

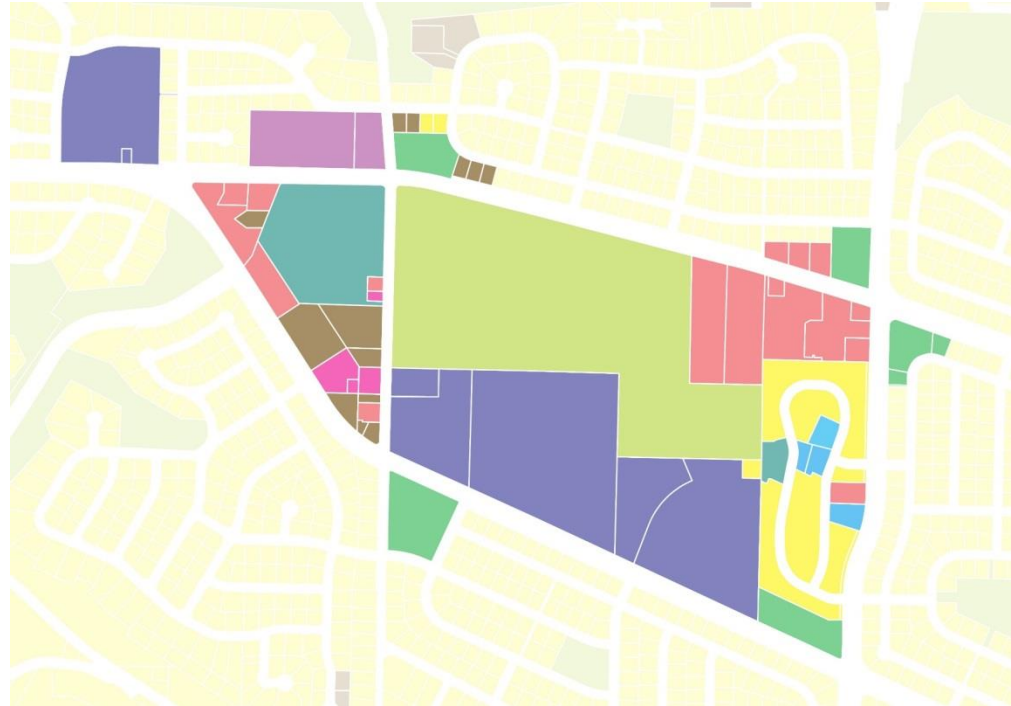
Future Market Analysis Steps

- Assessment of future BRT line and how it informs development at The Heights
- Absorption analysis- assumptions for rents, housing types, rate of development
- Detailed redevelopment pro forma

Land Use- Zoning

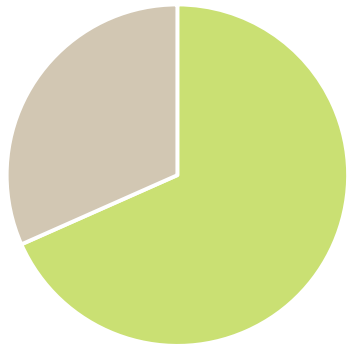


Land Use- Use Mix



Land Use- Open Space

Parking (32%)



Green Space (68%)



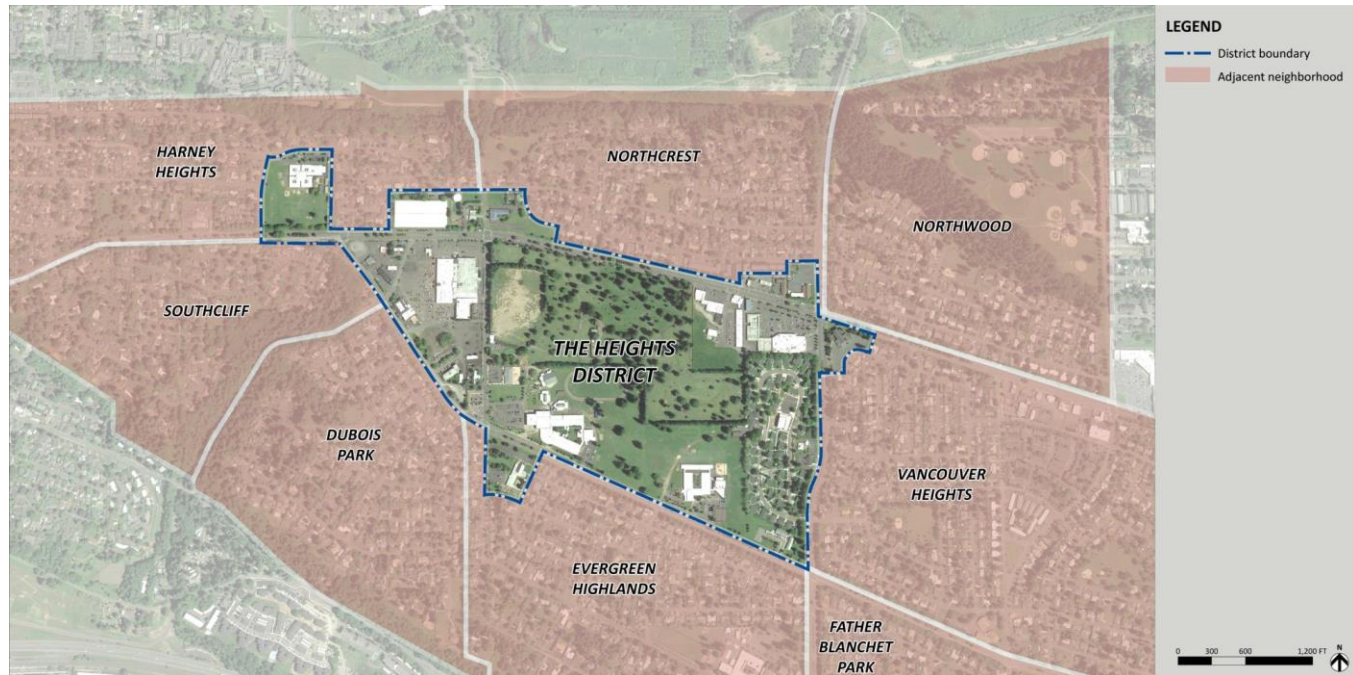
Land Use

Key Takeaways

- Existing land use is a combination of housing, office, retail, and open space
- Significant vacant land available for redevelopment
- Social services, faith and community organizations, and schools are significant assets within the district
- Adjacent residential neighborhoods have a mix of densities



Transportation: Mobility, Access & Safety



CITY OF
Vancouver
WASHINGTON



Transportation: Pedestrian Network



Transportation: Bicycle Network



Transportation: Transit Network



Transportation: Mobility, Access & Safety

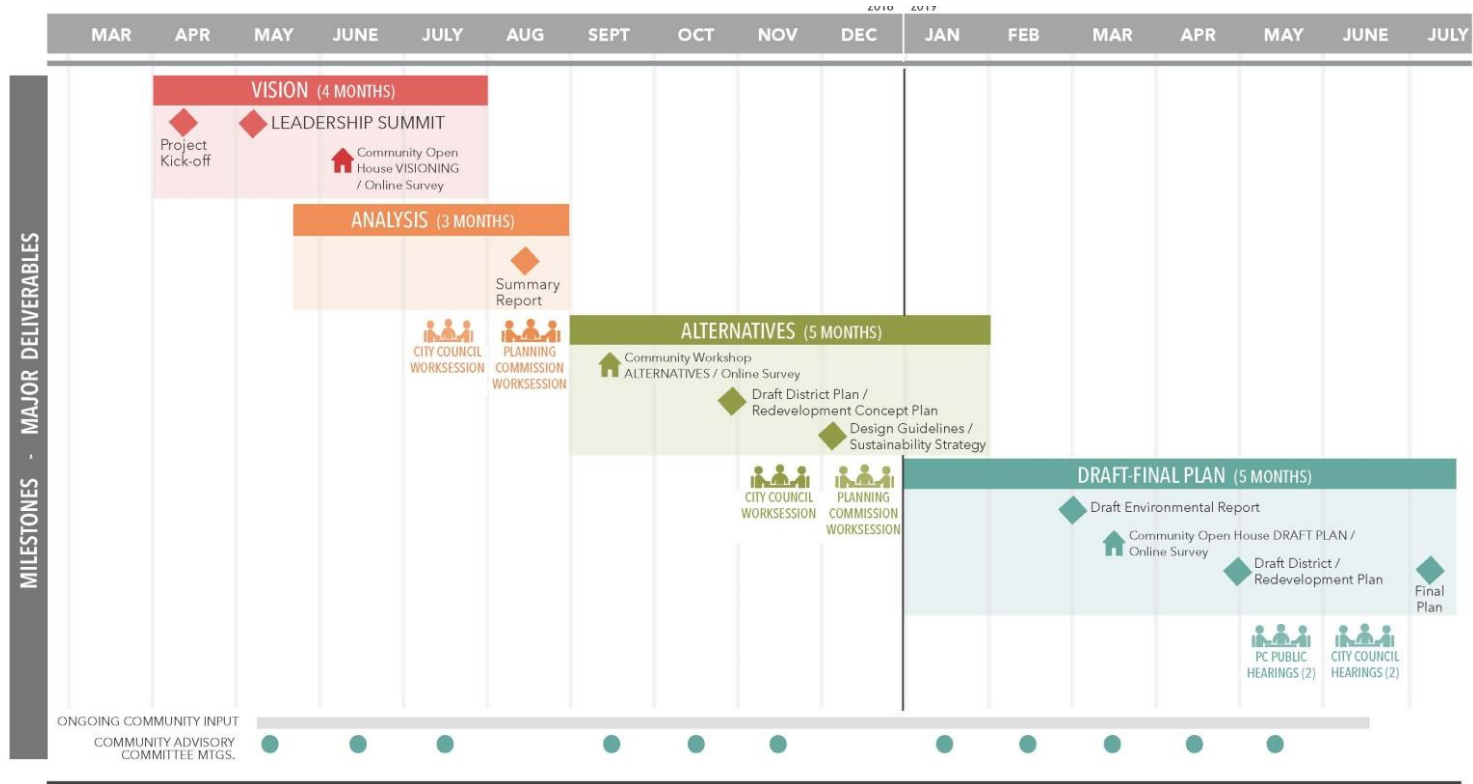
Key Takeaways

- Network challenges: limited connections from surrounding neighborhoods for vehicles, pedestrians and cyclists
- Safety Challenges on Mill Plain and Andresen: high speeds, large crossing distances, protected crossings few and far between, bike and pedestrian facilities inadequate for all ages and abilities
- Lack of safe connections to nearby amenities and regional facilities like Burnt Bridge Creek
- Frequent transit service, but access from surrounding neighborhoods is limited

Heights District Plan: Community Engagement



Project Timeline



Next Steps

- Currently open: online open house (June 20 – July 11)
- July 10, 2018: Community Advisory Committee meeting #2
- Ongoing Community Engagement throughout the process
- Moratorium extension in November 2018
- Planning phase of the Heights project is projected to be complete in fall 2019
- Next Council Update: Fall, 2018

Questions and Discussion

Rebecca Kennedy, Planning Manager
(360) 487-7896

Rebecca.Kennedy@cityofvancouver.us

<https://www.cityofvancouver.us/heights-district-plan>



Staff Report 099-18

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 7/2/2018

SUBJECT Professional services agreements (PSAs) for on-call transportation engineering planning and design services

Key Points

- On-call, task order contracts allow for the efficient procurement of scope-specific professional assistance during times of peak workload.
- A Request for Qualifications (RFQu) was issued by the City for transportation planning and design with responses received by nine firms. Per WSDOT Local Programs, in order to utilize the firms on federally and state-funded projects, responses were evaluated for responsiveness and meeting qualifications.
- Based on this, all nine firms were selected to provide on-call transportation planning and design services.
- The contracts will be in place for a period of four years plus an option for a one-year extension (up to five years total), with varying task order-specific amounts to be determined dependent on the specific work needed.

Strategic Plan Alignment

Goal 1, Objective 1.1: Develop and maintain a safe, balanced and innovative transportation system that will meet the needs of future generations.

Goal 1, Objective 1.2: Ensure our infrastructure, including buildings and utilities, is safe, environmentally responsible and well maintained.

Present Situation

The City's Streets and Transportation division of Public Works has numerous projects identified in its six-year Transportation Improvement Program (TIP). The TIP projects vary in scope and timing with several of these projects being either large enough or containing elements specialized in nature that require design assistance to supplement current engineering staff.

As a result, the City issued RFQu 14-18 for on-call transportation engineering planning and design services in April 2018 and received nine responses in May 2018. Anticipated projects will likely come with a variety of funding sources including local, state, and federal funds, so the contracts will allow the use of these services on projects with any type of funding. Anticipated projects are the annual Neighborhood Traffic Safety projects, Community Development Block Grant (CDBG) projects, Pavement Management projects (surface seals, overlays and associated curb ramp improvements), Multi-modal and Safety projects, Sidewalk Management Program projects, planning level designs, and other civil design project work as needed.

Per the Washington State Department of Transportation (WSDOT) Local Programs office, in order to utilize this contract for engineering services on federally funded projects, all proposing firms that are responsive and meet the minimum qualifications must be selected. Otherwise, these services could only be used on locally funded projects. All proposing firms were responsive and meet the minimum qualifications, so all nine consulting firms were selected for on-call professional services contracts. Streets and Transportation staff proposes to execute each contract for four years with an optional one-year extension (up to 5 years total).

Engineering Firm	Contract Amount
Akana	\$500,000
BergerABAM	\$500,000
HDR Engineering, Inc.	\$500,000
Harper Houf Peterson Righellis Inc.	\$500,000
MacKay Sposito	\$500,000
MurraySmith	\$500,000
PBS Engineering and Environmental Inc.	\$500,000
Otak, Inc.	\$500,000
Wallis Engineering, PLLC	\$500,000

Utilizing on-call contracts for these projects allows the City flexibility in staffing projects during times of peak workload or where specialty services are required.

Advantage(s)

1. Provides immediate transportation engineering planning and design services needed to assist City staff with the execution of both planned and unplanned projects.
2. Provides maximum flexibility to streets and transportation engineering staff to ensure all projects are adequately and professionally staffed.
3. Establishing on-call contracts now and subsequent task orders as needed reduces staff time required by the project manager, selection committee, and procurement staff to facilitate the consultant hiring process for each task.
4. Allows for the hiring of consultants that are specialized in specific fields that meet project needs of the transportation system and can be used on projects with any type of funding.

Disadvantage(s)

Using consultants can be more costly than using City staff; however, the short-term nature of on-call task assignments creates an as-needed, short-term supplement to City staff during peak workloads at a reasonable cost.

Budget Impact

None. Projects identified for completion are within the City's Six-Year Transportation Improvement Program. Expenditures for task orders executed from these on-call contracts will be funded from the applicable project's budget.

Prior Council Review

None

Action Requested

Authorize the City Manager or his designee to execute Professional Service Agreements in an amount not to exceed \$500,000 each with Akana, BergerABAM, HDR Engineering, Inc., Harper Houf Peterson Righellis Inc., MacKay Sposito, MurraySmith, PBS Engineering and Environmental Inc., Otak Inc., and Wallis Engineering, PLLC. for transportation engineering planning and design services on an as-needed basis for four years with an optional one year extension. Council authorizes the City Manager to amend the contracts as needed and to amend the value up to 10% of the not-to-exceed value stated here-in.

Ryan Miles, Operations Superintendent, 487-7708

ATTACHMENTS:

- ▢ Akana Contract
- ▢ Berger ABAM Contract
- ▢ HDR Contract
- ▢ Harper Houf Peterson Righellis Contract
- ▢ Mackay Sposito Contract
- ▢ Murray Smith Contract
- ▢ Otak Inc Contract
- ▢ PBS Engineering Contract
- ▢ Wallis Engineering Contract

Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: 90218

Does this Require DES filing? ☐ Yes ☒ No

Firm/Organization Legal Name (do not use dba's): Akana	
Address 6400 SE Lake Rd. Ste 270 Portland Oregon 97222	Federal Aid Number
UBI Number	Federal TIN or SSN Number 91-1753733
Execution Date July 16th, 2018	Completion Date July 15th, 2022
1099 Form Required ☒ Yes ☐ No	Federal Participation ☒ Yes ☐ No
Project Title On-Call Engineering Services	
Description of Work Miscellaneous engineering and other related professional services - to be determined (TBD)	
☐ Yes (TBD) % ☐ No DBE Participation ☐ Yes (TBD) % ☐ No MBE Participation ☐ Yes (TBD) % ☐ No WBE Participation ☐ Yes (TBD) % ☐ No SBE Participation	Maximum Amount Payable: \$500,000.00

Index of Exhibits

- Exhibit A Scope of Work
- Exhibit B DBE Participation/SBE Plan
- Exhibit C Preparation and Delivery of Electronic Engineering and Other Data
- Exhibit D Prime Consultant Cost Computations
- ~~Exhibit E Sub-consultant Cost Computations~~
- Exhibit F Title VI Assurances
- Exhibit G Certification Documents
- ~~Exhibit H Liability Insurance Increase~~
- Exhibit I Alleged Consultant Design Error Procedures
- Exhibit J Consultant Claim Procedures

Agreement Number: 90218

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the "AGENCY," and the "Firm/Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Agreement Number: 90218

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absents of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8433

If to CONSULTANT:

Name: Chuck McDonald, PE
Agency: Akana
Address: 6400 SE Lake Road Seute 270
City: Portland State: OR Zip: 97222
Email: chuck.mcdonald@akana.us
Phone: 503-652-9090
Facsimile: 360-666-4827

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

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V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. **Hourly Rates:** Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

- B. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT'S Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each Task Order unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964
(42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973
(23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973
(29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975
(42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987
(Public Law 100-259)
- American with Disabilities Act of 1990
(42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE), the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

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to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and/or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or the AGENCY, its agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

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

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8426

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

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XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

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XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number: 90218

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XIX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

DATED this _____ day of _____, 2018

CITY OF VANCOUVER, a municipal corporation

BY: _____
Eric Holmes, City Manager

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

AKANA, Contractor

BY: _____

Title _____

Approved as to form:

E. Bronson Potter, City Attorney

Exhibit A

Scope of Work

Project No. N/A

On-call professional engineering services and other related professional services for the City of Vancouver Transportation Division per Request for Qualifications #14-18 (RFQu) and the respondents response to said RFQu on file in City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

Agreement Number: 90218

Exhibit B
DBE Participation/SBE Plan

TBD

Agreement Number: 90218

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

ORACLE

B. Electronic Messaging System

OUTLOOK

C. File Transfers Format

TBD

Exhibit D
Prime Consultant Cost Computations

Per the attached fee schedule and by reference hereto made a part of this agreement

Agreement Number: 90218

2017-2018 Hourly Billing Rates

Standard billing rates (Effective 8 August 2017) are shown in the following table.

Title	Billing Rate (\$/hour)
Program Manager	\$220.00
Sr Project Manager	\$180.00
Project Manager	\$155.00
Sr Civil Engineer	\$175.00
Civil Engineer	\$135.00
Jr Civil Engineer	\$105.00
Sr Structural Engineer	\$175.00
Structural Engineer	\$135.00
Jr Structural Engineer	\$110.00
Sr Mechanical Engineer	\$170.00
Mechanical Engineer	\$135.00
Jr Mechanical Engineer	\$105.00
Sr Electrical Engineer	\$170.00
Electrical Engineer	\$135.00
Jr Electrical Engineer	\$110.00
Sr Environmental Engineer	\$175.00
Environmental Engineer	\$135.00
Jr Environmental Engineer	\$100.00
Commissioning Agent	\$150.00
Sr Environmental Scientist	\$170.00
Environmental Scientist	\$135.00
Jr Environmental Scientist	\$95.00
Biologist	\$120.00
Jr Biologist	\$95.00
Sr Geologist	\$165.00
Geologist	\$135.00
Sr Planner	\$165.00
Planner	\$135.00
Jr Planner	\$100.00
Architect	\$155.00
Jr. Architect	\$115.00
Sr CAD Tech	\$100.00

2017-2018 Hourly Billing Rates

Standard billing rates (Effective 8 August 2017) are shown in the following table.

Title	Billing Rate (\$/hour)
CAD Tech	\$90.00
Intern	\$50.00
Sr Construction Manager	\$165.00
Construction Manager	\$140.00
Sr Construction Inspector	\$135.00
Construction Inspector	\$105.00
Jr Construction Inspector	\$90.00
Sr Field Tech	\$75.00
Jr Field Tech	\$55.00
Senior Construction Admin	\$105.00
Construction Admin	\$75.00
Technical Writer	\$130.00
Clerical	\$80.00
Jr Clerical	\$60.00
Sr Scheduler	\$170.00
Scheduler	\$120.00
Sr Cost Estimator	\$210.00
Cost Estimator	\$130.00
Outreach	\$105.00
Safety	\$150.00

2017-2018 Reimbursable Direct Costs

The following reimbursable expenses will be billed as follows.

Item	Unit	Standard billing rate
Travel Costs (outside 50-mile radius)		
Subsistence (food & lodging)		At Cost
Mileage (company vehicles)	Per mile	\$0.535
Rental Car, Air Fare, Fuel		At Cost
Reproduction		At Cost
Photocopying	Per page	\$0.03 black & white \$0.10 color
Plotting	Per sq. ft.	\$0.20 black & white
Subconsultants		10% Markup
Miscellaneous Supplies		At Cost



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

March 27, 2018

Cooper Zietz Engineers, Inc. (dba Akana)
6400 SE Lake Road, Suite 270
Portland, OR 97222

Subject: Acceptance FYE 2016 ICR – Audit Office Review

Dear Ms. Kristina Le Jeune:

Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2016 Indirect Cost Rate (ICR) for home rate of 146.80% and field rate of 126.77%. These rates will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. These rates may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
Mar 29 2018 8:51 AM

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number: 90218

Exhibit G

Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Vancouver
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: 90218

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Akana
whose address is
6400 SE Lake Road, Ste 270, Portland, Oregon 97222
and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Vancouver
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Akana

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90218

Exhibit G-1 (b)
Certification of Agency Official

I hereby certify I am the Agency Official of the Local Agency of the City of Vancouver, Washington, and the consulting firm or its representative has not been required, directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Eric Holmes, City Manager

**Exhibit G-2 Certification Regarding Debarment, Suspension and Other
Responsibility Matters - Primary Covered Transactions**

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Akana

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90218

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Akana

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90218

Exhibit G-4
Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4 submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of On-call engineering services are accurate, complete, and current as of July 16th, 2018. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm: Akana

Signature: _____

Print Name: _____

Title: _____

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

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Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number: 90218

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

E-VERIFY

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon City request. Failure by Contractor to comply with this subsection shall be considered a material breach.

Initials:

Consultant _____

City _____

Accessibility for the Disabled

Any consulting services, whatsoever, provided for under the terms of this agreement shall comply with all local, State and Federal statutes applicable to the accessibility of the disabled, including but not limited to, the Architectural Barriers Act (ABA), Uniform Federal Accessibility Standards (UFAS), and Americans with Disabilities Act (ADA).

Initials:

Consultant _____

City _____

Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: 90220

Does this Require DES filing? ☐ Yes ☒ No

Firm/Organization Legal Name (do not use dba's): BergerABAM										
Address 210 E. 13th St, #300 Vancouver, Washington 98660	Federal Aid Number									
UBI Number	Federal TIN or SSN Number 91-1422812									
Execution Date July 16th, 2018	Completion Date July 15th, 2022									
1099 Form Required ☒ Yes ☐ No	Federal Participation ☒ Yes ☐ No									
Project Title On-Call Engineering Services										
Description of Work Miscellaneous engineering and other related professional services - to be determined (TBD)										
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">☐ Yes (TBD) %</td> <td style="width: 33%;">☐ No DBE Participation</td> <td rowspan="4" style="width: 34%; vertical-align: top; padding-left: 20px;">Maximum Amount Payable: \$500,000.00</td> </tr> <tr> <td>☐ Yes (TBD) %</td> <td>☐ No MBE Participation</td> </tr> <tr> <td>☐ Yes (TBD) %</td> <td>☐ No WBE Participation</td> </tr> <tr> <td>☐ Yes (TBD) %</td> <td>☐ No SBE Participation</td> </tr> </table>		☐ Yes (TBD) %	☐ No DBE Participation	Maximum Amount Payable: \$500,000.00	☐ Yes (TBD) %	☐ No MBE Participation	☐ Yes (TBD) %	☐ No WBE Participation	☐ Yes (TBD) %	☐ No SBE Participation
☐ Yes (TBD) %	☐ No DBE Participation	Maximum Amount Payable: \$500,000.00								
☐ Yes (TBD) %	☐ No MBE Participation									
☐ Yes (TBD) %	☐ No WBE Participation									
☐ Yes (TBD) %	☐ No SBE Participation									

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation/SBE Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number: 90220

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the "AGENCY," and the "Firm/Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absents of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8433

If to CONSULTANT:

Name: Tom Wilcox
Agency: BergerABAM
Address: 210 East 13th Street, Suite 300
City: Vancouver State: WA Zip: 98660
Email: tom.wilcox@abam.com
Phone: 360-823-6100
Facsimile: 360-823-6101

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

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V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the

B. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT'S Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.

C. Maximum Amount Payable: The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.

D. Monthly Progress Payments: Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.

E. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

F. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each Task Order unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964
(42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973
(23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973
(29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975
(42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987
(Public Law 100-259)
- American with Disabilities Act of 1990
(42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE), the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

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to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and/or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or the AGENCY, its agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

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

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8426

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

Agreement Number: 90220

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

Agreement Number: 90220

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number: 90220

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XIX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe

Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

DATED this _____ day of _____, 2018

CITY OF VANCOUVER, a municipal corporation

BY: _____
Eric Holmes, City Manager

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

BERGERABAM, Contractor

BY: _____
Title _____

Approved as to form:

E. Bronson Potter, City Attorney

Exhibit A Scope of Work

Project No. N/A

On-call professional engineering services and other related professional services for the City of Vancouver Transportation Division per Request for Qualifications #14-18 (RFQu) and the respondents response to said RFQu on file in City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

Agreement Number: 90220

Exhibit B
DBE Participation/SBE Plan

TBD

Agreement Number: 90220

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

Agreement Number: 90220

D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

Agreement Number: 90220

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

ORACLE

B. Electronic Messaging System

OUTLOOK

C. File Transfers Format

TBD

Exhibit D ***Prime Consultant Cost Computations***

Per the attached fee schedule and by reference hereto made a part of this agreement.

Agreement Number: 90220



Discipline or Job Title	Salary Hourly	Overhead @ 153.96%	Profit @ 10%	Billing Rate
	Max	Max	Max	Max
		153.96%	10%	
Administrative - Senior	\$ 55.00	\$ 84.68	\$ 13.97	\$ 153.65
Administrative-Strategic Communications Project Manager	\$ 45.10	\$ 69.44	\$ 11.45	\$ 125.99
Administrative-Technical Editor	\$ 38.50	\$ 59.27	\$ 9.78	\$ 107.55
Assistant Project Manager/Scheduler	\$ 40.70	\$ 62.66	\$ 10.34	\$ 113.70
Communications Specialist 3	\$ 33.00	\$ 50.81	\$ 8.38	\$ 92.19
Department Coordinator	\$ 33.00	\$ 50.81	\$ 8.38	\$ 92.19
Designer 3	\$ 37.40	\$ 57.58	\$ 9.50	\$ 104.48
Designer 4	\$ 45.10	\$ 69.44	\$ 11.45	\$ 125.99
EIT III	\$ 41.25	\$ 63.51	\$ 10.48	\$ 115.23
Engineer 3	\$ 39.60	\$ 60.97	\$ 10.06	\$ 110.62
Engineer 4	\$ 42.90	\$ 66.05	\$ 10.89	\$ 119.84
Environmental Planner 3	\$ 37.40	\$ 57.58	\$ 9.50	\$ 104.48
Environmental Planner 4	\$ 31.90	\$ 49.11	\$ 8.10	\$ 89.11
Environmental Planner 7	\$ 57.20	\$ 88.07	\$ 14.53	\$ 159.79
Environmental Scientist 6	\$ 48.40	\$ 74.52	\$ 12.29	\$ 135.21
Landscape Designer 4	\$ 36.30	\$ 55.89	\$ 9.22	\$ 101.41
Landscape Designer 5	\$ 41.80	\$ 64.36	\$ 10.62	\$ 116.77
Officer/Vice President	\$ 101.20	\$ 155.81	\$ 25.70	\$ 282.71
Project Coordinator	\$ 33.00	\$ 50.81	\$ 8.38	\$ 92.19
Project Engineer 5	\$ 48.40	\$ 74.52	\$ 12.29	\$ 135.21
Project Manager 7	\$ 64.90	\$ 99.92	\$ 16.48	\$ 181.30
Public Involvement Specialist 5	\$ 42.90	\$ 66.05	\$ 10.89	\$ 119.84
Scientist 2/Environmental Scientist 2	\$ 31.90	\$ 49.11	\$ 8.10	\$ 89.11
Scientist 3/Environmental Scientist 3	\$ 34.10	\$ 52.50	\$ 8.66	\$ 95.26
Senior Engineer 4	\$ 46.20	\$ 71.13	\$ 11.73	\$ 129.06
Senior Landscape Architect 7	\$ 52.80	\$ 81.29	\$ 13.41	\$ 147.50
Senior Landscape Architect 6	\$ 51.70	\$ 79.60	\$ 13.13	\$ 144.43
Senior Planner/Environmental Planner 6	\$ 46.20	\$ 71.13	\$ 11.73	\$ 129.06
Senior Project Engineer 6	\$ 59.40	\$ 91.45	\$ 15.09	\$ 165.94
Senior Project Manager 8	\$ 80.30	\$ 123.63	\$ 20.39	\$ 224.32
Senior Scientist/Natural Resources 7/Environmental Scientist 7	\$ 53.90	\$ 82.98	\$ 13.69	\$ 150.57

Reimbursable Expenses	As Incurred
Subconsultants/Subcontractors and outside services	As Incurred
Mileage	Current Federal Standard



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

November 22, 2017

BergerABAM, Inc.
33301 Ninth Avenue South, Suite 300
Federal Way, WA 98003-2600

Subject: Acceptance FYE 2017 ICR – CPA Report

Dear Ms. Megan Isaacks:

We have accepted your firms FYE 2017 Indirect Cost Rate (ICR) of 153.96% based on the "Independent CPA Report," prepared by T. Wayne Owens & Associates. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

A handwritten signature in black ink, appearing to read "Erik K. Jonson".

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

BergerABAM, Inc.
Indirect Cost Rate Schedule
For the Year Ended May 31, 2017

Classification	General Ledger	Firm Adjust.	Ref.	Accepted Amount	%
Direct Labor Base	<u>13,485,049</u>	<u></u>		<u>13,485,049</u>	
Indirect Salaries					
Proposal Admin Salaries	0			0	0.00%
Proposal/Negotiation Salaries	3,210,292	(82,010)	A	3,128,283	23.20%
Administrative Salaries	2,263,820	(86,732)	A	2,177,089	16.14%
Payroll Variance	0			0	0.00%
Office Support Salaries	0			0	0.00%
Accounting Salaries	458,783			458,783	3.40%
Housekeeping/Stby. Salaries	0			0	0.00%
Professional Activities Salaries	71,860			71,860	0.53%
Education & Training Salaries	253,773			253,773	1.88%
Research and Development	4,801			4,801	0.04%
Computer Salary	380,821			380,821	2.82%
Total Indirect Salaries	<u>6,644,150</u>	<u>(168,741)</u>		<u>6,475,409</u>	<u>48.02%</u>
Fringe Benefits/Salary Overhead					
Incentive Compensation	1,219,762			1,219,762	9.05%
Vacation	1,479,580			1,479,580	10.97%
Holiday	648,169			648,169	4.81%
Sick Leave	465,758			465,758	3.45%
Other Paid Leave	35,813			35,813	0.27%
FICA	1,583,251			1,583,251	11.74%
Federal Unemployment	14,218			14,218	0.11%
State Unemployment	117,082			117,082	0.87%
Industrial Insurance	0			0	0.00%
USL&H Work Comp	128,117			128,117	0.95%
Group Insurance	1,964,687	429		1,965,116	14.57%
Retirement Expense	480,084			480,084	3.56%
Benefit Recovery	0			0	0.00%
Fringe Benefit Adjustment	0	(12,909)	H	-12,909	-0.10%
Total Fringe Benefits/Sal. Ovhd.	<u>8,136,521</u>	<u>(12,480)</u>	<u>0</u>	<u>8,124,041</u>	<u>60.24%</u>
Administrative Expenses					
Travel & Subsistence	198,329	(9,427)	B,E,F	188,902	1.40%
Recruiting Fees & Expenses	29,332			29,332	0.22%
Contract Personnel	94,851	(87,351)		7,500	0.06%
Advertising	0		B,C	0	0.00%
Entertainment Expense	0			0	0.00%
Charitable Contributions	10,833	(10,833)	B,D	0	0.00%
Employee Welfare	87,974	(23,230)	B,E,F	64,744	0.48%
Employee Meals	82,042	(46,261)	B,E,F	35,780	0.27%
Library	19,813	(177)		19,635	0.15%
Professional Activities	9,451	(3,985)	B	5,466	0.04%
Education & Training Fees	118,927	(38)	B	118,890	0.88%
Research & Develop Expense	0			0	0.00%
General Admin	108,937	(11,314)	B	97,623	0.72%
Association Dues	83,270	(21,518)	B	61,752	0.46%
General Liability Insurance	89,571			89,571	0.66%
Legal Fees	819,234	(603,783)	B	215,451	1.60%

BergerABAM, Inc.
Indirect Cost Rate Schedule
For the Year Ended May 31, 2017

Classification	General Ledger	Firm Adjust.	Ref.	Accepted Amount	%
Accounting Fees	255,025	(785)	K	254,240	1.89%
Proposal Administration	242,613	(105,056)	B	137,557	1.02%
Proposal & Negotiation	0			0	0.00%
Office and Work Space	1,653,725	87	B	1,653,811	12.26%
Operating Expense	103,554		B	103,554	0.77%
Furniture & Small Equipment	12,245			12,245	0.09%
Furn & Small Office Depr.	226,363			226,363	1.68%
Office Equipment	0			0	0.00%
Office Supplies	56,361	3,007	B	59,367	0.44%
Field Equipment	21,131			21,131	0.16%
Field Equip Depreciation	50,003			50,003	0.37%
Auto Fuel & Maintenance	40,038			40,038	0.30%
Auto Insurance & License	26,009	901	B	26,910	0.20%
Auto & Truck Depreciation	35,074			35,074	0.26%
Field Equip Recovery	(79,631)			-79,631	-0.59%
Telephone	251,636			251,636	1.87%
Postage & Freight	15,619			15,619	0.12%
Reproduction	152,872	963		153,835	1.14%
Personal Property Tax	21,679			21,679	0.16%
Fidelity Insurance	29,446	(1,395)		28,051	0.21%
Business & Prof License	32,455			32,455	0.24%
Interest Expense	338	(338)	G	0	0.00%
Error & Omissions Insurance	475,922	(367)	I, J	475,556	3.53%
B&O Taxes	775,922			775,922	5.75%
City, State and Federal Taxes	1,383,786	(1,347,259)	L	36,527	0.27%
Computer Expense	641,014			641,014	4.75%
Computer Depreciation	236,722			236,722	1.76%
Misc Income				0	0.00%
Gain or Loss Sale of Asset	(3,500)			-3,500	-0.03%
Total Administrative Expenses	8,408,985	(2,268,160)	0	6,140,825	45.54%
Total Indirect Costs and Overhead	23,189,656	(2,449,382)	0	20,740,276	153.80%
Indirect Cost Rate	1.72			1.54	
Facilities Cost of Capital				22,208	0.16%
	\$23,189,656	(\$2,449,382)		20,762,484	
				153.96%	

References

Removed by BergerABAM

- A Unallowable Proposal Negotiation Salaries (\$82,010) and Administrative salaries (\$86,732).
- B Unallowable administrative expenses. Firm tracks unallowable expenses on the general ledger.
- C Advertising unallowable per 48 CFR 31.205-1(f).
- D Contributions unallowable per 48 CFR 31.205-8.
- E Removed by Berger/ABAM in compliance with various FARS regulations.
- F Travel and subsistence that are over the daily FAR allowable rates per 48 CFR 31.205-46
- G Interest and other financial costs not allowable per 48 CFR 31.205-20
- H Fringe Benefit adjustment; directly associated cost to unallowable advertising, public relations and direct

Exhibit E

Sub-consultant Cost Computations

Per the attached fee schedules and by reference hereto made a part of this agreement.

Agreement Number: 90220

Consultant Fee Determination - Summary Sheet



Standard DKS Billing Grades	Maximum Direct Salary	Overhead	Fixed Fee	Maximum Billing Rate
Tech Level A	\$ 9.67	175.54%	30.0%	\$ 29.55
Tech Level B	\$ 9.82	175.54%	30.0%	\$ 30.00
Tech Level C	\$ 11.46	175.54%	30.0%	\$ 35.00
Tech Level D/Grade 1	\$ 13.09	175.54%	30.0%	\$ 40.00
Tech Level E/Grade 2	\$ 14.73	175.54%	30.0%	\$ 45.00
Tech Level F/Grade 3	\$ 16.36	175.54%	30.0%	\$ 50.00
Tech Level G/Grade 4	\$ 18.00	175.54%	30.0%	\$ 55.00
Tech Level H/Grade 5	\$ 19.64	175.54%	30.0%	\$ 60.00
Tech Level I/Grade 6	\$ 21.27	175.54%	30.0%	\$ 65.00
Tech Level J/Grade 7	\$ 22.91	175.54%	30.0%	\$ 70.00
Tech Level K/Grade 8	\$ 24.55	175.54%	30.0%	\$ 75.00
Tech Level L/Grade 9	\$ 26.18	175.54%	30.0%	\$ 80.00
Tech Level M/Grade 10	\$ 27.82	175.54%	30.0%	\$ 85.00
Tech Level N/Grade 11	\$ 29.46	175.54%	30.0%	\$ 90.00
Tech Level O/Grade 12	\$ 31.09	175.54%	30.0%	\$ 95.00
Tech Level P/Grade 13	\$ 32.73	175.54%	30.0%	\$ 100.00
Tech Level Q/Grade 14	\$ 34.37	175.54%	30.0%	\$ 105.00
Tech Level R/Grade 15	\$ 36.00	175.54%	30.0%	\$ 110.00
Tech Level S/Grade 16	\$ 37.64	175.54%	30.0%	\$ 115.00
Tech Level T/Grade 17	\$ 39.27	175.54%	30.0%	\$ 120.00
Tech Level U/Grade 18	\$ 40.91	175.54%	30.0%	\$ 125.00
Tech Level V/Grade 19	\$ 42.55	175.54%	30.0%	\$ 130.00
Tech Level W/Grade 20	\$ 44.18	175.54%	30.0%	\$ 135.00
Tech Level X/Grade 21	\$ 45.82	175.54%	30.0%	\$ 140.00
Tech Level Y/Grade 22	\$ 47.46	175.54%	30.0%	\$ 145.00
Tech Level Z/Grade 23	\$ 49.09	175.54%	30.0%	\$ 150.00
Grade 24	\$ 50.73	175.54%	30.0%	\$ 155.00
Grade 25	\$ 52.37	175.54%	30.0%	\$ 160.00
Grade 26	\$ 54.00	175.54%	30.0%	\$ 165.00
Grade 27	\$ 55.64	175.54%	30.0%	\$ 170.00
Grade 28	\$ 57.28	175.54%	30.0%	\$ 175.00
Grade 29	\$ 58.91	175.54%	30.0%	\$ 180.00
Grade 30	\$ 60.55	175.54%	30.0%	\$ 185.00
Grade 31	\$ 62.18	175.54%	30.0%	\$ 190.00
Grade 32	\$ 63.82	175.54%	30.0%	\$ 195.00
Grade 33	\$ 65.46	175.54%	30.0%	\$ 200.00
Grade 34	\$ 67.09	175.54%	30.0%	\$ 205.00
Grade 35	\$ 68.73	175.54%	30.0%	\$ 210.00
Grade 36	\$ 70.37	175.54%	30.0%	\$ 215.00
Grade 37	\$ 72.00	175.54%	30.0%	\$ 220.00
Grade 38	\$ 73.64	175.54%	30.0%	\$ 225.00
Grade 39	\$ 75.28	175.54%	30.0%	\$ 230.00
Grade 40	\$ 76.91	175.54%	30.0%	\$ 235.00
Grade 41	\$ 78.55	175.54%	30.0%	\$ 240.00
Grade 42	\$ 80.19	175.54%	30.0%	\$ 245.00
Grade 43	\$ 81.82	175.54%	30.0%	\$ 250.00
Grade 44	\$ 83.46	175.54%	30.0%	\$ 255.00
Grade 45	\$ 85.10	175.54%	30.0%	\$ 260.00
Grade 46	\$ 86.73	175.54%	30.0%	\$ 265.00
Grade 47	\$ 88.37	175.54%	30.0%	\$ 270.00
Grade 48	\$ 90.00	175.54%	30.0%	\$ 275.00
Grade 49	\$ 91.64	175.54%	30.0%	\$ 280.00
Grade 50	\$ 93.28	175.54%	30.0%	\$ 285.00
Grade 51	\$ 94.92	175.54%	30.0%	\$ 290.00
Grade 52	\$ 96.56	175.54%	30.0%	\$ 295.00
Grade 53	\$ 98.20	175.54%	30.0%	\$ 300.00
Grade 54	\$ 99.84	175.54%	30.0%	\$ 305.00
Grade 55	\$ 101.48	175.54%	30.0%	\$ 310.00

Project expenses will be billed at cost for service and handling. Project expenses include project-related costs such as reproduction through outside services, transportation, subsistence, delivery/postage and subcontractor services.

Reimbursable costs are billed as follows:

- 8-1/2 x 11 B/W, at cost, up to \$0.10 per page
- 11 x 17 B/W bond, at cost, up to \$0.50 per page
- 24 x 36 B/W bond, at cost, up to \$1.00 per page
- 11 x 17 B/W mylar, at cost, up to \$ 3.50 per page
- 24 x 36 B/W mylar, at cost, up to \$ 7.00 per page
- 8-1/2 x 11 color, at cost, up to \$ 0.90 per page
- 11 x 17 color, at cost, up to \$ 1.75 per page



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

April 18, 2017

DKS Associates, Inc.
719 Second Avenue, Suite 1250
Seattle, WA 98104

Subject: Acceptance FYE 2016 ICR – Cognizant Review

Dear Ms. Betsy McCarthy:

We have accepted your firms FYE 2016 Indirect Cost Rate (ICR) of 175.54% based on the "Cognizant Review" from The Oregon Department of Transportation. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

 Jonson, Erik
cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms



HARTCROWSER

www.hartcrowser.com

Job Title	Minimum Direct Salary Cost	Not-to-Exceed Direct Salary Cost	Not-to-Exceed Overhead @ 224.46%	Not-to-Exceed Profit @ 10%	Not-to-Exceed Hourly Rate	Minimum Expected Hourly Rate
Senior Principal	\$ 80.83	\$ 98.03	\$ 220.04	\$ 31.81	\$ 349.87	\$ 288.49
Principal	\$ 72.11	\$ 79.33	\$ 178.06	\$ 25.74	\$ 283.13	\$ 257.36
Senior Associate	\$ 59.82	\$ 68.36	\$ 153.44	\$ 22.18	\$ 243.98	\$ 213.50
Associate	\$ 46.10	\$ 52.53	\$ 117.91	\$ 17.04	\$ 187.48	\$ 164.53
Senior Project	\$ 39.50	\$ 47.36	\$ 106.30	\$ 15.37	\$ 169.03	\$ 140.98
Project	\$ 34.08	\$ 37.38	\$ 83.90	\$ 12.13	\$ 133.41	\$ 121.63
Senior Staff	\$ 27.00	\$ 34.62	\$ 77.71	\$ 11.23	\$ 123.56	\$ 96.36
Staff	\$ 23.00	\$ 29.70	\$ 66.66	\$ 9.64	\$ 106.00	\$ 82.09
Senior Drafter	\$ 30.00	\$ 30.51	\$ 68.48	\$ 9.90	\$ 108.89	\$ 107.07
Drafter	\$ 25.00	\$ 25.00	\$ 56.12	\$ 8.11	\$ 89.23	\$ 89.23
Project Assistant	\$ 23.00	\$ 29.70	\$ 66.66	\$ 9.64	\$ 106.00	\$ 82.09

June 12, 2108



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

January 29, 2018

Hart Crowser, Inc.
3131 Elliott Avenue, Suite 600
Seattle, WA 98121

Subject: Acceptance FYE 2017 ICR – CPA Report

Dear Mr. Robert Jenson:

We have accepted your firms FYE 2017 Indirect Cost Rate (ICR) of 224.46% based on the "Independent CPA Report," prepared by T. Wayne Owens, CPA. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
Jan 29 2018 8:21 AM

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number: 90220

Exhibit G

Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Vancouver
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: 90220

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
BergerABAM
whose address is
210 East 13th Street, Suite 300, Vancouver Washington 98660
and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Vancouver
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

BergerABAM

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90220

Exhibit G-1 (b)
Certification of Agency Official

I hereby certify I am the Agency Official of the Local Agency of the City of Vancouver, Washington, and the consulting firm or its representative has not been required, directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Eric Holmes, City Manager

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BergerABAM

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90220

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

BergerABAM

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90220

Exhibit G-4
Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4 submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of On-call engineering services are accurate, complete, and current as of July 16th, 2018. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm: BergerABAM

Signature: _____

Print Name: _____

Title: _____

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number: 90220

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number: 90220

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

E-VERIFY

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon City request. Failure by Contractor to comply with this subsection shall be considered a material breach.

Initials:

Consultant _____

City _____

Accessibility for the Disabled

Any consulting services, whatsoever, provided for under the terms of this agreement shall comply with all local, State and Federal statutes applicable to the accessibility of the disabled, including but not limited to, the Architectural Barriers Act (ABA), Uniform Federal Accessibility Standards (UFAS), and Americans with Disabilities Act (ADA).

Initials:

Consultant _____

City _____

Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: 90196

Does this Require DES filing? ☐ Yes ☒ No

Firm/Organization Legal Name (do not use dba's): HDR Engineering, Inc.										
Address 700 Washington St., #405, Vancouver, WA 98660	Federal Aid Number									
UBI Number	Federal TIN or SSN Number 470680568									
Execution Date July 16th, 2018	Completion Date July 15th, 2022									
1099 Form Required ☒ Yes ☐ No	Federal Participation ☒ Yes ☐ No									
Project Title On-Call Engineering Services										
Description of Work Miscellaneous engineering and other related professional services - to be determined (TBD)										
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">☐ Yes (TBD) %</td> <td style="width: 33%;">☐ No DBE Participation</td> <td rowspan="4" style="width: 34%; vertical-align: top; padding-left: 20px;">Maximum Amount Payable: \$500,000.00</td> </tr> <tr> <td>☐ Yes (TBD) %</td> <td>☐ No MBE Participation</td> </tr> <tr> <td>☐ Yes (TBD) %</td> <td>☐ No WBE Participation</td> </tr> <tr> <td>☐ Yes (TBD) %</td> <td>☐ No SBE Participation</td> </tr> </table>		☐ Yes (TBD) %	☐ No DBE Participation	Maximum Amount Payable: \$500,000.00	☐ Yes (TBD) %	☐ No MBE Participation	☐ Yes (TBD) %	☐ No WBE Participation	☐ Yes (TBD) %	☐ No SBE Participation
☐ Yes (TBD) %	☐ No DBE Participation	Maximum Amount Payable: \$500,000.00								
☐ Yes (TBD) %	☐ No MBE Participation									
☐ Yes (TBD) %	☐ No WBE Participation									
☐ Yes (TBD) %	☐ No SBE Participation									

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation/SBE Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number: 90196

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the "AGENCY," and the "Firm/Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absents of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8433

If to CONSULTANT:

Name: Dustin Cooley
Agency: HDR Engineering, Inc.
Address: 700 Washington Street #405
City: Vancouver State: WA Zip: 98660
Email: dustin.cooley@hdrinc.com
Phone: 360-975-6826 & cell 971-303-3057
Facsimile: 360-975-6827

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

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V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. **Hourly Rates:** Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

- B. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT'S Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each Task Order unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE), the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

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to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and/or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or the AGENCY, its agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

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

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8426

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

Agreement Number: 90196

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number: 90196

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XIX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

DATED this _____ day of _____, 2018

CITY OF VANCOUVER, a municipal corporation

BY: _____
Eric Holmes, City Manager

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

HDR ENGINEERING, INC., Contractor

BY: _____
Title _____

Approved as to form:

E. Bronson Potter, City Attorney

Exhibit A

Scope of Work

Project No. N/A

On-call professional engineering services and other related professional services for the City of Vancouver Transportation Division per Request for Qualifications #14-18 (RFQu) and the respondents response to said RFQu on file in City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

Agreement Number: 90196

Exhibit B
DBE Participation/SBE Plan

TBD

Agreement Number: 90196

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

Agreement Number: 90196

D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

ORACLE

B. Electronic Messaging System

OUTLOOK

C. File Transfers Format

TBD

Exhibit D
Prime Consultant Cost Computations

Per the attached fee schedule and by reference hereto made a part of this agreement

Agreement Number: 90196

City of Vancouver

City of Vancouver - Rate and Expense Schedule
June 14, 2018 through June 13, 2019

HDR Engineering, Inc. Labor Classification	Direct Salary Cost	Overhead 156.83%	Fixed Fee 30%	Loaded Labor Rate
Principal in Charge	\$ 90.18	\$ 142.55	\$ 27.05	\$ 259.78
QC/Technical Advisor	\$ 72.49	\$ 114.59	\$ 21.75	\$ 208.83
Project Manager II	\$ 78.85	\$ 124.64	\$ 23.65	\$ 227.14
Project Manager	\$ 58.80	\$ 92.94	\$ 17.64	\$ 169.38
Engineer IV	\$ 72.04	\$ 113.88	\$ 21.61	\$ 207.53
Engineer III	\$ 52.77	\$ 83.42	\$ 15.83	\$ 152.03
Engineer II	\$ 40.35	\$ 63.79	\$ 12.11	\$ 116.25
Engineer I	\$ 35.21	\$ 55.66	\$ 10.56	\$ 101.43
Scientist/Planner IV	\$ 76.48	\$ 120.90	\$ 22.94	\$ 220.32
Scientist/Planner III	\$ -	\$ -	\$ -	\$ -
Scientist/Planner II	\$ 57.12	\$ 90.30	\$ 17.14	\$ 164.55
Scientist/Planner I	\$ -	\$ -	\$ -	\$ -
Technician IV	\$ -	\$ -	\$ -	\$ -
Technician III	\$ 50.92	\$ 80.49	\$ 15.27	\$ 146.68
Technician II	\$ 36.67	\$ 57.96	\$ 11.00	\$ 105.63
Technician I	\$ 26.88	\$ 42.48	\$ 8.06	\$ 77.42

Expenses				
Travel, Mileage, Per Diem				GSA Rate
Other Direct Costs				At Cost



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www.wsdot.wa.gov

June 27, 2017

HDR Engineering, Inc.
8404 Indian Hills Drive
Omaha, NE 68114

Subject: Acceptance FYE 2016 ICR – Cognizant Review

Dear Mr. Joe Cox:

We have accepted your firms FYE 2016 Indirect Cost Rate (ICR) of 157.63% of direct labor for contracts in effect prior to June 24, 2014 (rate includes 0.35% Facilities Capital Cost of Money) and 156.83% for contracts awarded on or after June 24, 2014 (rate includes 0.35% Facilities Capital Cost of Money) based on the "Cognizant Review" from The Nebraska Department of Roads (NDOR). This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;



for

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit E

Sub-consultant Cost Computations

Per the attached fee schedules and by reference hereto made a part of this agreement.

Agreement Number: 90196

WillametteCRA - Current wages

WSDOT overhead rate = 166.14%

Employee	Hourly Pay Rate	overhead	rate plus overhead	full rate with 10% profit
Breanne M Taylor	21.00	34.89	55.89	61.48
Christina K Paraso Panz	30.00	49.84	79.84	87.83
Marlis Muschal	21.00	34.89	55.89	61.48
David V Ellis	40.00	66.46	106.46	117.10
Donald Shannon	31.00	51.50	82.50	90.75
Scott Pierson	20.00	33.23	53.23	58.55
Matt F Goodwin	25.00	41.54	66.54	73.19
Elizabeth O'Brien	25.00	41.54	66.54	73.19
Michael A Daniels	22.00	36.55	58.55	64.41
Paul S Solimano	35.00	58.15	93.15	102.46
Amanda Taylor	30.00	49.84	79.84	87.83
Robert E Kopperl	49.00	81.41	130.41	143.45
Stephenie K Kramer	42.00	69.78	111.78	122.96
Todd B Ogle	35.00	58.15	93.15	102.46
Jesse Swordfisk	27.00	44.86	71.86	79.04
\$28 crew chief	28.00	46.52	74.52	81.97
\$26 crew chief	26.00	43.20	69.20	76.12
\$22 crew chief	22.00	36.55	58.55	64.41
\$20 crew chief	20.00	33.23	53.23	58.55
\$19 tech	19.00	31.57	50.57	55.62
\$18 tech	18.00	29.91	47.91	52.70
\$16 tech	16.00	26.58	42.58	46.84



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www.wsdot.wa.gov

April 10, 2017

Willamette Cultural Resources Associates, Ltd
2827 NE Martin Luther King Jr Blvd
Portland, OR 97212

Subject: Acceptance FYE 2015 ICR – Audit Office Review

Dear Ms. Kathy Anderson:

Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2015 Indirect Cost Rate (ICR) of 166.14%. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik

A handwritten signature in black ink, appearing to read "Erik K. Jonson".

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Global Transportation Engineering

Safe Harbor Hourly Rate Statement*

Labor Classification	Labor Rate	Indirect Cost		Fixed Fee	Not to Exceed Rate
		Rate			
		110%	30%		
Civil Designer	\$ 39.00	\$ 42.90	\$ 11.70	\$ 93.60	
Civil Designer II	\$ 46.00	\$ 50.60	\$ 13.80	\$ 110.40	
Engineering Assoc 1	\$ 25.00	\$ 27.50	\$ 7.50	\$ 60.00	
Engineering Assoc 2	\$ 30.00	\$ 33.00	\$ 9.00	\$ 72.00	
Engineering Assoc 3	\$ 35.00	\$ 38.50	\$ 10.50	\$ 84.00	
Engineering Assoc 4	\$ 36.00	\$ 39.60	\$ 10.80	\$ 86.40	
Engineering Assoc 5	\$ 37.00	\$ 40.70	\$ 11.10	\$ 88.80	
Engineering Assoc 6	\$ 38.00	\$ 41.80	\$ 11.40	\$ 91.20	
Sr Engineering Assoc 1	\$ 39.00	\$ 42.90	\$ 11.70	\$ 93.60	←
Sr Engineering Assoc 2	\$ 42.00	\$ 46.20	\$ 12.60	\$ 100.80	
Sr Engineering Assoc 3	\$ 45.00	\$ 49.50	\$ 13.50	\$ 108.00	
Sr Engineering Assoc 4	\$ 48.00	\$ 52.80	\$ 14.40	\$ 115.20	
Project Engineer 1	\$ 39.00	\$ 42.90	\$ 11.70	\$ 93.60	
Project Engineer 2	\$ 42.00	\$ 46.20	\$ 12.60	\$ 100.80	
Project Engineer 3	\$ 43.00	\$ 47.30	\$ 12.90	\$ 103.20	
Project Engineer 4	\$ 44.00	\$ 48.40	\$ 13.20	\$ 105.60	
Sr Project Engineer 1	\$ 45.00	\$ 49.50	\$ 13.50	\$ 108.00	←
Sr Project Engineer 2	\$ 48.00	\$ 52.80	\$ 14.40	\$ 115.20	
Sr Project Engineer 3	\$ 50.00	\$ 55.00	\$ 15.00	\$ 120.00	
Sr Project Engineer 4	\$ 52.00	\$ 57.20	\$ 15.60	\$ 124.80	
Sr Project Engineer 5	\$ 55.00	\$ 60.50	\$ 16.50	\$ 132.00	
Sr Project Engineer 6	\$ 60.00	\$ 66.00	\$ 18.00	\$ 144.00	
Sr Project Engineer 7	\$ 65.00	\$ 71.50	\$ 19.50	\$ 156.00	
Tech X	\$ 25.00	\$ 27.50	\$ 7.50	\$ 60.00	
Tech XI	\$ 30.00	\$ 33.00	\$ 9.00	\$ 72.00	
Tech XII	\$ 33.00	\$ 36.30	\$ 9.90	\$ 79.20	←
Principal/Project Manager 1	\$ 45.00	\$ 49.50	\$ 13.50	\$ 108.00	←
Principal/Project Manager 2	\$ 48.00	\$ 52.80	\$ 14.40	\$ 115.20	
Principal/Project Manager 3	\$ 50.00	\$ 55.00	\$ 15.00	\$ 120.00	
Principal/Project Manager 4	\$ 52.00	\$ 57.20	\$ 15.60	\$ 124.80	
Principal/Project Manager 5	\$ 55.00	\$ 60.50	\$ 16.50	\$ 132.00	←
Principal/Project Manager 6	\$ 60.00	\$ 66.00	\$ 18.00	\$ 144.00	
Principal/Project Manager 7	\$ 65.00	\$ 71.50	\$ 19.50	\$ 156.00	

*March 2016



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March 1, 2016

Monica T. Leal, Owner
Global Transportation Engineering Corporation
1020 SW Taylor Street
Portland, OR 97205-2543

Re: Global Transportation Engineering Corporation
Safe Harbor Indirect Cost Rate

Dear Ms. Leal:

Washington State has received approval from our local Federal Highway Administration (FHWA) Division to continue administering the "safe harbor" indirect cost rate program on engineering and design related service contracts, as well as for Local Public Agency projects.

We have completed our risk assessment for Global Transportation Engineering Corporation. Our assessment was conducted based on the documentation provided by the firm. The reviewed data included, but was not limited to, a description of the company, basis of accounting, accounting system and the basis of indirect costs. Based on our review, your firm is eligible to use the Safe Harbor rate. You have opted to use the Safe Harbor rate, rather than provide a FAR-complaint rate at this time.

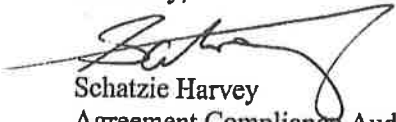
We are issuing the Safe Harbor Indirect Cost Rate of 110% of direct labor with a field rate, where applicable, of 80% of direct labor for Global Transportation Engineering. The Safe Harbor rate is effective on March 1, 2016.

Global Transportation Engineering has agreed to improve Internal Controls and timekeeping processes in order to be able to develop an Indirect Cost Rate Schedule in the future in accordance with the Federal Acquisition Regulations (FAR), Subpart 31. The WSDOT Internal Audit Office has provided guidance and information related to FARs and the AASHTO Audit Guide. The Safe Harbor Rate of 110%, or 80% for field office situations, can be used for agreements entered into prior to December 31, 2018. For agreements entered into after this date, please contact the WSDOT Consultant Services Office (CSO) or our office for guidance.

The Safe Harbor Rate will not be subject to audit. Please coordinate with CSO or your Local Programs contact if you have questions about when to apply the Safe Harbor rate to your agreement.

If you have any questions, please contact me, Jeri Sivertson, or Steve McKerney at (360)705-7003.

Sincerely,


Schatzie Harvey
Agreement Compliance Audit Manager

cc: Steve McKerney, Director of Internal Audit
Jeri Sivertson, Assistant Director of Internal Audit
Larry Schofield, MS 47323
File

CERTIFICATION OF FINAL INDIRECT COSTS – FOR A SAFE HARBOR INDIRECT COST RATE

Firm Name: Global Transportation Engineering Corporation

I, the undersigned, certify that I have reviewed the proposal to establish the Safe Harbor rate.

The firm is electing to use the SAFE HARBOR INDIRECT COST RATE of 110% of direct labor with a field rate, when applicable, of 80% of direct labor. To the best of my knowledge and belief:

- a) The firm has not had a FAR compliant indirect cost rate previously accepted by any other state agency.*
- b) The firm will provide reports as required by the SAFE HARBOR RATE program on their progress toward compliance with the cost principles of the Federal Acquisition Regulations (FAR) of title 48, Code of Federal Regulations (CFR), part 31.*

All known material transactions or events that have occurred affecting the firm's ownership, organization and prior & current indirect cost rates have been disclosed.

The firm agrees to follow the 'Path to Compliance'. Steps noted below:

The Pathway must include:

- A timekeeping system which includes the Internal Controls described in chapter 6 of AASHTO*
- An accounting system which separates indirect costs and direct costs*
- An accounting system which separates allowable and unallowable cost*
- A compliant job cost system which is general ledger driven*
- Training for accounting personnel and key management on Part 31 of the Federal Acquisition Regulations, Contract Cost Principles and Procedures*
- A strong written internal control policy with a policy and procedures manual*

*Signature: _____

*Name of Certifying Official (Print): Dana M. Beckwith

*Title: Vice President

Date of Certification (mm/dd/yyyy): 2/25/2016

*Note: This form is to be completed by an individual executive or financial officer of the consultant at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate proposal submitted in conjunction with the agreement.

Employee Name	Job Classification	Direct Rate
Mary Ellen Eagan	Supervisory Consultant I	127.76
Eugene M. Reindel	Supervisory Consultant I	85.17
Diana B. Wasiuk	Supervisory Consultant I	111.41
Kurt M. Hellauer	Supervisory Consultant II	76.92
John C. Weston	Supervisory Consultant II	76.75
Christopher W. Menge	Principal Consultant I	78.43
Joseph J. Czech	Principal Consultant I	69.23
Justin W. Cook	Principal Consultant I	76.92
Christopher J. Bajdek	Principal Consultant II	54.32
Robert C. Mentzer Jr.	Principal Consultant II	59.62
David A. Crandall	Principal Consultant II	51.44
Bradley L. Nicholas	Principal Consultant II	48.56
Philip M. DeVita	Principal Consultant II	59.61
Brandon L. Robinette	Principal Consultant II	53.85
Katherine B. Preston	Principal Consultant II	58.89
Scott R. Noel	Principal Consultant II	54.32
Michael J. Hamilton	Senior Consultant I	43.99
Eric Cox	Senior Consultant I	45.19
Rhea A. Gundry	Senior Consultant II	43.27
Bradley M. Dunkin	Senior Consultant II	41.83
Justin E. Divens	Senior Consultant III	38.22
Adam R. Scholten	Senior Consultant III	36.06
Jessica L. Cohen	Senior Consultant III	33.65
Dillon S. Tannler	Senior Consultant III	36.06
Christopher S. Nottoli	Consultant I	31.97
Júlia M. Nagy	Consultant I	31.25
Hayden T. Jubera	Consultant II	28.85
Scott A. McIntosh	Consultant II	29.09
Dominic M. Scarano	Consultant III	28.12
Mariano Sarrate	Consultant III	28.85
Vincent Ma	Consultant III	26.44
Andrew P. Fansel	Sr. Project Support	61.90
Carol A. Murphy	Project Support I	32.05
Margo Y. Olson	Project Support I	34.46
John Y. Wei	Project Support I	45.19
Crystale A. Wozniak	Project Support I	44.57
Kristine J. Collins	Project Support II	25.24
Anaheet A. Gazder	Project Support II	24.87
Kathleen M. Campbell	Project Support II	25.48
Charlotte L. Moore	Project Support II	20.00



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www.wsdot.wa.gov

May 14, 2018

Harris Miller Miller and Hanson Inc.
77 South Bedford Street
Burlington, MA 01803

Subject: Acceptance FYE 2017 ICR – Risk Assessment Review

Dear Mr. Andrew Fansel:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2017 ICR of 205.75%. These rates are applicable to Washington Local Agency Contracts only. These rates may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
May 14 2018 1:50 PM

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

ACTUALS NOT TO EXCEED TABLE (ANTE)

RFQu #14-18

On-Call Geotechnical Services

SHANNON & WILSON, INC.

Classification	Class Code	Direct Salary Cost NTE	Overhead 190-27% DSC NTE	Fee 10% DSC NTE	Billing Rate Range NTE
Sr. Vice President / President	T27 / T28 / T29	86.82	\$165.19	\$8.68	\$260.69
Vice President	T25	73.43	\$139.71	\$7.34	\$220.49
Sr. Associate / Associate	T22 / T23 / T24	61.78	\$117.55	\$6.18	\$185.50
Sr. Professional II / III	T19 / T20	46.59	\$88.65	\$4.66	\$139.89
Sr. Professional II / III	T18	36.30	\$69.07	\$3.63	\$109.00
Professional III / IV	T16 / T17	41.77	\$79.47	\$4.18	\$125.42
Professional I / II	T14 / T15	23.02	\$43.80	\$2.30	\$69.12
Sr. Drafter / Technician	S17 / S19	47.29	\$89.98	\$4.73	\$142.00
Drafter / Technician	S09 / S10 / S11 / S13 / S15	25.04	\$47.64	\$2.50	\$75.19
Administration	A15 / A17 / A19	36.62	\$69.68	\$3.66	\$109.96
Clerical	A07 / A09 / A10 / A11 / A13	27.91	\$53.10	\$2.79	\$83.80

Invoiced costs may not exceed the NTE rate per classification



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

June 14, 2017

Shannon & Wilson, Inc.
400 N. 34th Street, Suite 100
Seattle, WA 98103

Subject: Acceptance FYE 2016 ICR – CPA Report

Dear Ms. Noelani Bevill:

We have accepted your firms FYE 2016 Indirect Cost Rate (ICR) of 190.27% based on the "Independent CPA Report," prepared by CPA Consulting, Inc.. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik

cc:sign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Certification of Final Indirect Costs

Firm Name: Shannon & Wilson, Inc.

Indirect Cost Rate Proposal: 190.267%

Date of Proposal Preparation (mm/dd/yyyy): 5/19/2017

Fiscal Period Covered (mm/dd/yyyy to mm/dd/yyyy): 1/1/2016 - 12/31/2016

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1.) All costs included in this proposal to establish final indirect cost rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of title 48, Code of Federal Regulations (CFR), part 31.

2.) This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

Signature: 

Name of Certifying Official* (Print): Hollie L. Ellis

Title: SR Vice President

Date of Certification (mm/dd/yyyy): 5/24/17

*The "Certifying Official" must be an individual executive or financial officer of the firm at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate for use under Agency contracts.

Ref. FHWA Directive 4470.1A available on line at:
<http://www.fhwa.dot.gov/legisregs/directives/orders/44701a.htm>

SHANNON & WILSON, INC.
STATEMENT OF DIRECT LABOR, FRINGE BENEFITS AND GENERAL OVERHEAD
For the Year Ended December 31, 2016

General Ledger Balance	Portion Unallowable	FAR Reference	Proposed Audited Total	Percent of Direct Labor
\$ 13,074,066	\$ -		\$ 13,074,066	
DIRECT LABOR				
FRINGE BENEFITS				
Additional compensation	400,000	(15) 31.205-6	2,488,223	
Qualified retirement plans	-		1,264,491	
Vacation, sick and holiday	-		2,484,371	
Payroll fringes	(143,000)	(2,3) 31.205-1,13	5,053,436	
11,033,520	257,000		11,290,520	86.4%
GENERAL OVERHEAD				
Administrative salaries	(3,154)	(1,4) 31.205-6(f),(p)	3,325,290	
Proposal and business development labor	(203,726)	(5) 31.205-1	3,476,530	
Equipment	-		265,180	
Rent and facility	(5,082)	(13) 31.203(b)	2,122,361	
Travel and auto	(3,393)	(6) 31.205-46	419,673	
Proposal and business development	(357,475)	(7,8,9) 31.205-1,8,14	153,620	
Interest	(10,723)	(10) 31.205-20	-	
Supplies	-		531,011	
Outside professional services	-		182,393	
Computer	-		768,301	
Telephone and postage	-		328,508	
Conferences and professional	(27,707)	(6,14) 31.205-46,22	435,777	
Depreciation	-		484,907	
Insurance	-		1,085,847	
Taxes and licenses	(1,862,141)	(11) 31.205-41	620,701	
Bad debts	(215,341)	(12) 31.205-3	-	
Revenue from in-house charges	-		(651,849)	
16,236,992	(2,688,743)		13,548,248	103.6%
\$ 27,270,512	\$ (2,431,743)		\$ 24,838,768	190.0%
Total Fringe Benefits and General Overhead				
Facilities capital cost of money				
			\$ 34,896	0.267%

See accompanying notes.
3

SHANNON & WILSON, INC.

STATEMENT OF DIRECT LABOR, FRINGE BENEFITS AND GENERAL OVERHEAD
For the Year Ended December 31, 2016

FAR References:

- (1) Unallowable spot bonuses
- (2) Taxes related to unallowable promotion labor
- (3) Unallowable meals and employee gifts
- (4) Not used
- (5) Advertising and public relations labor
- (6) Excess per diem and travel expense
- (7) Unallowable contribution costs
- (8) Unallowable entertainment costs
- (9) Unallowable advertising and public relations costs
- (10) Interest expenses
- (11) Federal income taxes
- (12) Bad debts
- (13) Rent charged as direct costs to projects
- (14) Unallowable lobbying cost
- (15) Accrued prior year bonuses paid in current year

See accompanying notes.

SHANNON & WILSON, INC.
NOTES TO STATEMENT OF DIRECT LABOR, FRINGE BENEFITS
AND GENERAL OVERHEAD
For the Year Ended December 31, 2016

NOTE A: DESCRIPTION OF BUSINESS AND BASIS OF ACCOUNTING

Description of business – Shannon & Wilson, Inc. (the Company) provides geotechnical engineering and environmental consulting services, primarily throughout the United States of America.

Basis of accounting – The Company maintains its accounting records on the accrual basis for financial reporting while using the cash method of accounting for federal income tax purposes. The Company's policy is to prepare its overhead schedules, which support the Statement of Direct Labor, Fringe Benefits, and General Overhead (the Statement), on the basis of accounting practices prescribed by Part 31 of the Federal Acquisition Regulations (FAR). Accordingly, the above-mentioned Statement is not intended to present the results of operations of the Company in conformity with accounting principles generally accepted in the United States of America.

NOTE B: DESCRIPTION OF ACCOUNTING SYSTEM

Description of accounting – The Company maintains a job-order cost accounting system for the recording and accumulation of costs incurred under its contracts. Each project is assigned a job number so that costs may be segregated and accumulated in the Company's job-order cost accounting system.

The audited overhead rate is a unitary rate for all disciplines. Direct project costs and allocated indirect costs are included in the project cost record. The allocation basis for indirect costs is direct labor. Direct labor of salaried employees is calculated using a standard hourly rate based on an annual hour base of 2,080.

Direct costs incurred in providing services billed to clients at unit rates or on the basis of a published fee schedule are charged by functional accounts and accumulated as a single project or grouping to allow segregation of such costs from other direct costs.

The Company's method of estimating costs for pricing purposes during the proposal process is consistent with the accumulation and reporting of costs under its job-order cost accounting system.

Direct labor costs – The Company distributes labor costs directly to projects for all employee classifications at standard cost. Certain officers and associates are not paid for the time worked in excess of 40 hours per week (uncompensated overtime). The uncompensated overtime in excess of 40 hours is credited to administrative salaries in the amount of \$1,249,051. Overtime premium costs have been excluded from direct labor and are included in general overhead as part of administrative salaries and totaled \$36,508.

Overhead rate – The calculated overhead rate is a unitary rate for all offices (ten) and includes all disciplines.

NOTE B: DESCRIPTION OF ACCOUNTING SYSTEM (continued)

Depreciation – Depreciation has been provided on the straight-line method over the estimated useful lives of buildings, equipment and leasehold improvements. The depreciation included in General Overhead does not exceed the amount used in the financial statements and is allowable under FAR 31.205-11(e).

Sick leave – Sick leave costs are neither accrued annually nor paid to an employee upon termination. Applicable sick leave costs are expensed if paid and then included in the overhead rate.

Compensation – The Company paid no compensation in excess of the FAR 31.205-6(p) limit of \$487,000 per person. Senior executive compensation was analyzed using the 2016 *National Compensation Matrix* in accordance with the AASHTO Audit Guide and all compensation was allowable.

NOTE C: FACILITIES CAPITAL COST OF MONEY (FCCM)

The Facilities Capital Cost of Money rate has been calculated in accordance with FAR Section 31.205-10; using average net book values of equipment and facilities multiplied by the average Treasury rates for the applicable period, as shown:

Beginning net capital assets, January 1, 2016	\$ 1,717,307
Ending net capital assets, December 31, 2016	<u>1,473,166</u>
Average Net Capital Assets	1,595,237
Average Treasury Rate	<u>2.188%</u>
Facilities Cost of Money	<u>\$ 34,896</u>
Direct Labor Base	<u>\$ 13,074,066</u>
FCCM Rate	<u>0.267%</u>

NOTE D: BENEFIT PLANS

The Company has two qualified retirement plans which cover employees who meet eligibility requirements. The Company made cash contributions of \$1,264,491 to the plans during the year ended December 31, 2016.

NOTE E: AUDITOR CONTACT

The person to contact relative to this engagement is:

Kristine L. Tryon
CPA Consulting, Inc., P.S.
Phone (425) 401-5061

2018-19 Maximum Bill Rate

Alta Planning + Design, Inc.

Job Classifications	Maximum Direct Salary	Overhead @ 189.84	Profit @ 30% of hourly rate	Maximum Billing Rate
Labor Category 1a : Sr. Principal	118.13	224.26 \$	35.44 \$	377.83
Labor Category 1b : Principal	110.24	209.28 \$	33.07 \$	352.59
Labor Category 1c : Principal	89.51	169.93 \$	26.85 \$	286.29
Labor Category 2 : Principal	78.04	148.15 \$	23.41 \$	249.60
Labor Category 3 : Sr. Associate, Principal	71.03	134.84 \$	21.31 \$	227.18
Labor Category 4 : Sr. Associate, Principal	56.06	106.43 \$	16.82 \$	179.30
Labor Category 5 : Sr. Associate, Principal	54.55	103.55 \$	16.36 \$	174.46
Labor Category 6 : Sr. Associate, Principal	53.03	100.67 \$	15.91 \$	169.61
Labor Category 7 : Sr. Associate, Principal	51.52	97.80 \$	15.45 \$	164.77
Labor Category 8 : Assoc., Sr. Assoc.	49.39	93.77 \$	14.82 \$	157.98
Labor Category 9 : Assoc., Sr. Assoc.	46.97	89.17 \$	14.09 \$	150.23
Labor Category 10 : Assoc., Sr. Assoc.	45.45	86.29 \$	13.64 \$	145.38
Labor Category 11 : Senior, Associate	43.03	81.69 \$	12.91 \$	137.63
Labor Category 12 : Senior, Associate	41.52	78.81 \$	12.45 \$	132.78
Labor Category 13 : Senior, Associate	39.09	74.21 \$	11.73 \$	125.03
Labor Category 14 : Level 1, Senior	34.85	66.16 \$	10.45 \$	111.46
Labor Category 15 : Level 1, Senior	32.12	60.98 \$	9.64 \$	102.74
Labor Category 16 : Level 1, Level 2	29.70	56.38 \$	8.91 \$	94.98
Labor Category 17 : Level 1, Level 2	26.67	50.62 \$	8.00 \$	85.29
Labor Category 18: Admin ONLY	35.00	66.44 \$	10.50 \$	111.94
Labor Category 19: Interns ONLY	20.00	37.97 \$	6.00 \$	63.97



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

July 20, 2017

Alta Planning + Design
711 SE Grand Avenue
Portland, OR 97214

Subject: Acceptance FYE 2016 ICR – Risk Assessment Review

Dear Ms. Keely Jamison:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2016 ICR of 189.84%. This rate is applicable to Washington Local Agency Contracts only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

 Jonson, Erik
cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number: 90196

Exhibit G

Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Vancouver
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: 90196

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
HDR Engineering, Inc.

whose address is

700 Washington Street, Suite 405, Vancouver Washington 98660-3177

and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Vancouver
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

HDR Engineering, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90196

Exhibit G-1 (b)
Certification of Agency Official

I hereby certify I am the Agency Official of the Local Agency of the City of Vancouver, Washington, and the consulting firm or its representative has not been required, directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Eric Holmes, City Manager

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

HDR Engineering, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90196

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

HDR Engineering, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90196

Exhibit G-4
Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4 submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of on-call engineering services are accurate, complete, and current as of June 16th, 2018. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm: HDR Engineering, Inc.

Signature: _____

Print Name: _____

Title: _____

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number: 90196

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

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Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

E-VERIFY

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon City request. Failure by Contractor to comply with this subsection shall be considered a material breach.

Initials:

Consultant _____

City *pmc*

Accessibility for the Disabled

Any consulting services, whatsoever, provided for under the terms of this agreement shall comply with all local, State and Federal statutes applicable to the accessibility of the disabled, including but not limited to, the Architectural Barriers Act (ABA), Uniform Federal Accessibility Standards (UFAS), and Americans with Disabilities Act (ADA).

Initials:

Consultant _____

City *pmc*

Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: 90210

Does this Require DES filing? ☐ Yes ☒ No

Firm/Organization Legal Name (do not use dba's): Harper Houf Peterson Righellis, Inc.			
Address 1104 Main Street, Suite 100 Vancouver WA 98660		Federal Aid Number	
UBI Number		Federal TIN or SSN Number 93-1045332	
Execution Date July 16th, 2018		Completion Date July 15th, 2022	
1099 Form Required ☒ Yes ☐ No		Federal Participation ☒ Yes ☐ No	
Project Title On-Call Engineering Services			
Description of Work Miscellaneous engineering and other related professional services - to be determined (TBD)			
☐ Yes (TBD) % ☐ No DBE Participation ☐ Yes (TBD) % ☐ No MBE Participation ☐ Yes (TBD) % ☐ No WBE Participation ☐ Yes (TBD) % ☐ No SBE Participation		Maximum Amount Payable: \$500,000.00	

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation/SBE Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number: 90210

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the "AGENCY," and the "Firm/Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

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Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absents of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8433

If to CONSULTANT:

Name: Charles Harper
Agency: Harper Houf Peterson Righellis, Inc.
Address: 1104 Main St, Suite 100
City: Vancouver State: WA Zip: 98660
Email: chuck@hhpr.com
Phone: 360-750-1131
Facsimile: 360-750-1141

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

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V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

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B. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT'S Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.

C. Maximum Amount Payable: The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.

D. Monthly Progress Payments: Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.

E. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

F. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each Task Order unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE), the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

Agreement Number: 90210

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and/or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or the AGENCY, its agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

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

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Agreement Number: 90210

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8426

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

Agreement Number: 90210

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

Agreement Number: 90210

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number: 90210

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XIX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbings, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

DATED this _____ day of _____, 2018

CITY OF VANCOUVER, a municipal corporation

BY: _____
Eric Holmes, City Manager

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

HARPER HOUF PETERSON RIGHELLIS, INC., Contractor

BY: _____

Title _____

Approved as to form:

E. Bronson Potter, City Attorney

Exhibit A

Scope of Work

Project No. N/A

On-call professional engineering services and other related professional services for the City of Vancouver Transportation Division per Request for Qualifications #14-18 (RFQu) and the respondents response to said RFQu on file in City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

Agreement Number: 90210

TBD

D **rticipation/S** **ibit** **n |**

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

ORACLE

B. Electronic Messaging System

OUTLOOK

C. File Transfers Format

TBD

Exhibit D
Prime Consultant Cost Computations

Per the attached fee schedule and by reference hereto made a part of this agreement

Agreement Number: 90210

City of Vancouver Actuals Not To Exceed Table (ANTE)
On-Call Engineering Services RFQu #14-18
June 2018

Harper Houf Peterson Righellis Inc. 205 SE Spokane St, Suite 200 Portland, Oregon 97202				
Job Classifications	Direct Labor Rate NTE*	Overhead NTE*	Fixed Fee NTE	All Inclusive Hourly Billing Rate NTE
		156.61%		
Senior Principal	\$97.39	\$152.52	\$29.22	\$279.13
Senior Bridge Engineer	\$68.86	\$107.84	\$20.66	\$197.36
Project Manager	\$94.16	\$147.46	\$28.25	\$269.87
Structural Manager	\$52.81	\$82.71	\$15.84	\$151.36
Project Engineer	\$59.23	\$92.76	\$17.77	\$169.76
Construction Manager	\$48.58	\$76.08	\$14.57	\$139.24
Senior Scientist	\$44.73	\$70.05	\$13.42	\$128.20
Civil Engineer	\$48.62	\$76.14	\$14.59	\$139.35
Structural Engineer	\$38.02	\$59.54	\$11.41	\$108.97
Senior Planner	\$46.22	\$72.39	\$13.87	\$132.47
Landscape Architect	\$33.49	\$52.45	\$10.05	\$95.99
Planner	\$38.47	\$60.25	\$11.54	\$110.26
Quality Control Engineer	\$59.23	\$92.76	\$17.77	\$169.76
Senior Civil Designer	\$47.83	\$74.91	\$14.35	\$137.09
Civil Designer	\$35.09	\$54.95	\$10.53	\$100.57
Structural Designer	\$27.46	\$43.01	\$8.24	\$78.70
Inspector	\$36.08	\$56.50	\$10.82	\$103.41
BIM Specialist	\$39.46	\$61.80	\$11.84	\$113.10
Landscape Designer	\$25.96	\$40.66	\$7.79	\$74.40
Scientist	\$27.00	\$42.28	\$8.10	\$77.38
CADD Technician	\$39.46	\$61.80	\$11.84	\$113.10
CADD Technician II	\$16.50	\$25.84	\$4.95	\$47.29
Survey Manager	\$54.58	\$85.48	\$16.37	\$156.43
Project Surveyor	\$48.39	\$75.78	\$14.52	\$138.69
Survey Technician	\$35.10	\$54.97	\$10.53	\$100.60
Survey Crew (Crew Chief)	\$28.08	\$43.98	\$8.42	\$80.48
Survey Crew (Instrument Person)	\$26.41	\$41.36	\$7.92	\$75.69
Senior Clerical	\$57.38	\$89.86	\$17.21	\$164.46
Graphics Artist	\$36.06	\$56.47	\$10.82	\$103.35
Clerical	\$25.61	\$40.11	\$7.68	\$73.40



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

July 20, 2017

Harper Houf Peterson Righellis Inc.
205 SE Spokane Street, Suite 200
Portland, OR 97202

Subject: Acceptance FYE 2016 ICR – Audit Office Review

Dear Mr. Ken Baldwin:

Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2016 Indirect Cost Rate (ICR) of 156.61%. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit E

Sub-consultant Cost Computations

Per the attached fee schedules and by reference hereto made a part of this agreement.

Global Transportation Engineering

Safe Harbor Hourly Rate Statement*

Labor Classification	Labor Rate	Indirect Cost		Fixed Fee		Not to Exceed Rate
		Rate	110%	30%		
Civil Designer	\$ 39.00	\$ 42.90	\$ 11.70	\$ 93.60		
Civil Designer II	\$ 46.00	\$ 50.60	\$ 13.80	\$ 110.40		
Engineering Assoc 1	\$ 25.00	\$ 27.50	\$ 7.50	\$ 60.00		
Engineering Assoc 2	\$ 30.00	\$ 33.00	\$ 9.00	\$ 72.00		
Engineering Assoc 3	\$ 35.00	\$ 38.50	\$ 10.50	\$ 84.00		
Engineering Assoc 4	\$ 36.00	\$ 39.60	\$ 10.80	\$ 86.40		
Engineering Assoc 5	\$ 37.00	\$ 40.70	\$ 11.10	\$ 88.80		
Engineering Assoc 6	\$ 38.00	\$ 41.80	\$ 11.40	\$ 91.20		
Sr Engineering Assoc 1	\$ 39.00	\$ 42.90	\$ 11.70	\$ 93.60	←	
Sr Engineering Assoc 2	\$ 42.00	\$ 46.20	\$ 12.60	\$ 100.80		
Sr Engineering Assoc 3	\$ 45.00	\$ 49.50	\$ 13.50	\$ 108.00		
Sr Engineering Assoc 4	\$ 48.00	\$ 52.80	\$ 14.40	\$ 115.20		
Project Engineer 1	\$ 39.00	\$ 42.90	\$ 11.70	\$ 93.60		
Project Engineer 2	\$ 42.00	\$ 46.20	\$ 12.60	\$ 100.80		
Project Engineer 3	\$ 43.00	\$ 47.30	\$ 12.90	\$ 103.20		
Project Engineer 4	\$ 44.00	\$ 48.40	\$ 13.20	\$ 105.60		
Sr Project Engineer 1	\$ 45.00	\$ 49.50	\$ 13.50	\$ 108.00	←	
Sr Project Engineer 2	\$ 48.00	\$ 52.80	\$ 14.40	\$ 115.20		
Sr Project Engineer 3	\$ 50.00	\$ 55.00	\$ 15.00	\$ 120.00		
Sr Project Engineer 4	\$ 52.00	\$ 57.20	\$ 15.60	\$ 124.80		
Sr Project Engineer 5	\$ 55.00	\$ 60.50	\$ 16.50	\$ 132.00		
Sr Project Engineer 6	\$ 60.00	\$ 66.00	\$ 18.00	\$ 144.00		
Sr Project Engineer 7	\$ 65.00	\$ 71.50	\$ 19.50	\$ 156.00		
Tech X	\$ 25.00	\$ 27.50	\$ 7.50	\$ 60.00		
Tech XI	\$ 30.00	\$ 33.00	\$ 9.00	\$ 72.00		
Tech XII	\$ 33.00	\$ 36.30	\$ 9.90	\$ 79.20	←	
Principal/Project Manager 1	\$ 45.00	\$ 49.50	\$ 13.50	\$ 108.00	←	
Principal/Project Manager 2	\$ 48.00	\$ 52.80	\$ 14.40	\$ 115.20		
Principal/Project Manager 3	\$ 50.00	\$ 55.00	\$ 15.00	\$ 120.00		
Principal/Project Manager 4	\$ 52.00	\$ 57.20	\$ 15.60	\$ 124.80		
Principal/Project Manager 5	\$ 55.00	\$ 60.50	\$ 16.50	\$ 132.00	←	
Principal/Project Manager 6	\$ 60.00	\$ 66.00	\$ 18.00	\$ 144.00		
Principal/Project Manager 7	\$ 65.00	\$ 71.50	\$ 19.50	\$ 156.00		

*March 2016



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

March 1, 2016

Monica T. Leal, Owner
Global Transportation Engineering Corporation
1020 SW Taylor Street
Portland, OR 97205-2543

Re: Global Transportation Engineering Corporation
Safe Harbor Indirect Cost Rate

Dear Ms. Leal:

Washington State has received approval from our local Federal Highway Administration (FHWA) Division to continue administering the "safe harbor" indirect cost rate program on engineering and design related service contracts, as well as for Local Public Agency projects.

We have completed our risk assessment for Global Transportation Engineering Corporation. Our assessment was conducted based on the documentation provided by the firm. The reviewed data included, but was not limited to, a description of the company, basis of accounting, accounting system and the basis of indirect costs. Based on our review, your firm is eligible to use the Safe Harbor rate. You have opted to use the Safe Harbor rate, rather than provide a FAR-complaint rate at this time.

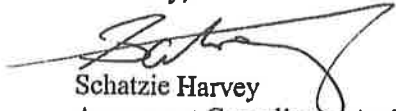
We are issuing the Safe Harbor Indirect Cost Rate of 110% of direct labor with a field rate, where applicable, of 80% of direct labor for Global Transportation Engineering. The Safe Harbor rate is effective on March 1, 2016.

Global Transportation Engineering has agreed to improve Internal Controls and timekeeping processes in order to be able to develop an Indirect Cost Rate Schedule in the future in accordance with the Federal Acquisition Regulations (FAR), Subpart 31. The WSDOT Internal Audit Office has provided guidance and information related to FARs and the AASHTO Audit Guide. The Safe Harbor Rate of 110%, or 80% for field office situations, can be used for agreements entered into prior to December 31, 2018. For agreements entered into after this date, please contact the WSDOT Consultant Services Office (CSO) or our office for guidance.

The Safe Harbor Rate will not be subject to audit. Please coordinate with CSO or your Local Programs contact if you have questions about when to apply the Safe Harbor rate to your agreement.

If you have any questions, please contact me, Jeri Sivertson, or Steve McKerney at (360)705-7003.

Sincerely,


Schatzie Harvey
Agreement Compliance Audit Manager

cc: Steve McKerney, Director of Internal Audit
Jeri Sivertson, Assistant Director of Internal Audit
Larry Schofield, MS 47323
File

CERTIFICATION OF FINAL INDIRECT COSTS – FOR A SAFE HARBOR INDIRECT COST RATE

Firm Name: Global Transportation Engineering Corporation

I, the undersigned, certify that I have reviewed the proposal to establish the Safe Harbor rate.

The firm is electing to use the SAFE HARBOR INDIRECT COST RATE of 110% of direct labor with a field rate, when applicable, of 80% of direct labor. To the best of my knowledge and belief:

- a) The firm has not had a FAR compliant indirect cost rate previously accepted by any other state agency.*
- b) The firm will provide reports as required by the SAFE HARBOR RATE program on their progress toward compliance with the cost principles of the Federal Acquisition Regulations (FAR) of title 48, Code of Federal Regulations (CFR), part 31.*

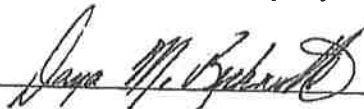
All known material transactions or events that have occurred affecting the firm's ownership, organization and prior & current indirect cost rates have been disclosed.

The firm agrees to follow the 'Path to Compliance'. Steps noted below:

The Pathway must include:

- A timekeeping system which includes the Internal Controls described in chapter 6 of AASHTO*
- An accounting system which separates indirect costs and direct costs*
- An accounting system which separates allowable and unallowable cost*
- A compliant job cost system which is general ledger driven*
- Training for accounting personnel and key management on Part 31 of the Federal Acquisition Regulations, Contract Cost Principles and Procedures*
- A strong written internal control policy with a policy and procedures manual*

*Signature: _____



*Name of Certifying Official (Print): Dana M. Beckwith

*Title: Vice President

Date of Certification (mm/dd/yyyy): 2/25/2016

*Note: This form is to be completed by an individual executive or financial officer of the consultant at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate proposal submitted in conjunction with the agreement.

ACTUALS NOT TO EXCEED TABLE (ANTE)

Agreement No. Y-11806

Geotechnical Resources, Inc. 1101 Broadway, Suite 130 Vancouver, WA 98660					
Job Classifications	Direct Labor Rates NTE	Overhead 187.83% NTE	Fixed Fee 30% NTE	All Inclusive Hourly Billing Rate NTE	
Principal	\$ 69.33	\$ 130.22	\$ 20.80	\$	220.35
Associate	\$ 62.50	\$ 117.39	\$ 18.75	\$	198.64
Senior Engineer / Geologist	\$ 46.05	\$ 86.50	\$ 13.82	\$	146.36
Project Engineer / Geologist	\$ 40.87	\$ 76.77	\$ 12.26	\$	129.90
Staff Engineer / Geologist	\$ 36.06	\$ 67.73	\$ 10.82	\$	114.61
Engineering Assistant	\$ 25.00	\$ 46.96	\$ 7.50	\$	79.46
CADD / Drafter	\$ 31.08	\$ 58.38	\$ 9.32	\$	98.78
Technical Editor	\$ 36.60	\$ 68.75	\$ 10.98	\$	116.33
Contract Admin / Accountant	\$ 50.31	\$ 94.50	\$ 15.09	\$	159.90
Production / Clerical	\$ 30.01	\$ 56.37	\$ 9.00	\$	95.38

WSDOT Approved OH Rate as of 12/14/16

Max Labor rates as of 11/1/15



Jonson, Erik

cosign

Y-11806 Exhibit D



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

February 16, 2017

Geotechnical Resources, Inc.
1101 Broadway, Suite 130
Vancouver, WA 98660

Subject: Acceptance Prime Annual ANTE Rate Table

Dear Ms. Tina Olson:

Washington State Department of Transportation (WSDOT) has reviewed and accepted your proposed Annual ANTE rate table for Agreement Number Y-11806. This acceptance is in accordance with the terms of your agreement with WSDOT.

This Annual ANTE rate table may be subject to additional review if considered necessary by WSDOT.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards,

Jonson, Erik

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:rck

Enclosure: Prime Accepted Annual ANTE Rate Table

Cc: Bill Hegge



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

December 14, 2016

Geotechnical Resources, Inc.
9725 SW Beaverton Hillsdale Hwy
Beaverton, OR 97005-3364

Subject: Acceptance FYE 2015 ICR – Audit Office Review

Dear Ms. Tina Olson:

Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2015 Indirect Cost Rate (ICR) of 187.83%. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
Dec 14 2016 11:06 AM

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number: 90210

Exhibit G

Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Vancouver
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: 90210

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Harper Houf Peterson Righellis, Inc.

whose address is

1104 Main Street, Suite 100, Vancouver, Washington 98660

and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Vancouver
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Harper Houf Peterson Righellis, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90210

Exhibit G-1 (b)
Certification of Agency Official

I hereby certify I am the Agency Official of the Local Agency of the City of Vancouver, Washington, and the consulting firm or its representative has not been required, directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Eric Holmes, City Manager

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Harper Houf Peterson Righellis, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90210

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Harper Houf Peterson Righellis, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90210

Exhibit G-4
Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4 submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of On-call engineering services are accurate, complete, and current as of July 16th, 2018. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm: Harper Houf Peterson Righellis, Inc.

Signature: _____

Print Name: _____

Title: _____

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number: 90210

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number: 90210

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

E-VERIFY

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon City request. Failure by Contractor to comply with this subsection shall be considered a material breach.

Initials:

Consultant _____

City _____

Accessibility for the Disabled

Any consulting services, whatsoever, provided for under the terms of this agreement shall comply with all local, State and Federal statutes applicable to the accessibility of the disabled, including but not limited to, the Architectural Barriers Act (ABA), Uniform Federal Accessibility Standards (UFAS), and Americans with Disabilities Act (ADA).

Initials:

Consultant _____

City _____

Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: 90209

Does this Require DES filing? ☐ Yes ☒ No

Firm/Organization Legal Name (do not use dba's): Mackay Sposito	
Address 1325 SE Tech Cntr. Dr, #140, Vancouver, WA 98683	Federal Aid Number
UBI Number	Federal TIN or SSN Number 91-0915984
Execution Date July 16th, 2018	Completion Date July 15th, 2022
1099 Form Required ☒ Yes ☐ No	Federal Participation ☒ Yes ☐ No
Project Title On-Call Engineering Services	
Description of Work Miscellaneous engineering and other related professional services - to be determined (TBD)	
☐ Yes (TBD) % ☐ No DBE Participation ☐ Yes (TBD) % ☐ No MBE Participation ☐ Yes (TBD) % ☐ No WBE Participation ☐ Yes (TBD) % ☐ No SBE Participation	Maximum Amount Payable: \$500,000.00

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation/SBE Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number: 90209

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the "AGENCY," and the "Firm/Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absents of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8433

If to CONSULTANT:

Name: Damon Webster
Agency: Mackay Sposito
Address: 1325 SE Tech Center Drive #140
City: Vancouver State: WA Zip: 98683
Email: dwebster@mackaysposito.com
Phone: 360-695-3411
Facsimile: 360-695-0833

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

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V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. **Hourly Rates:** Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

- B. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT'S Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each Task Order unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE), the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

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to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and/or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or the AGENCY, its agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

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

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8426

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

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XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number: 90209

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XIX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe

Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

DATED this _____ day of _____, 2018

CITY OF VANCOUVER, a municipal corporation

BY: _____
Eric Holmes, City Manager

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

MACKAY SPOSITO, Contractor

BY: _____
Title _____

Approved as to form:

E. Bronson Potter, City Attorney

Exhibit A

Scope of Work

Project No. N/A

On-call professional engineering services and other related professional services for the City of Vancouver Transportation Division per Request for Qualifications #14-18 (RFQu) and the respondents response to said RFQu on file in City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

Agreement Number: 90209

TBD

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

ORACLE

B. Electronic Messaging System

OUTLOOK

C. File Transfers Format

TBD

Exhibit D
Prime Consultant Cost Computations

Per the attached fee schedule and by reference hereto made a part of this agreement

Agreement Number: 90209



Actuals Not To Exceed Table (ANTE)

City of Vancouver RFQu 14-18 On-Call Professional Engineering Services - Transportation

MacKay Sposito, Inc

1325 SE Tech Center Drive, Suite 140

Vancouver, WA 98683

Job Classifications	Direct Labor Rate NTE*	Overhead NTE*	Fixed Fee NTE	All Inclusive Hourly Billing Rate NTE
		164.04%	30.00%	
Principal	\$115.38	\$189.27	\$34.61	\$339.26
Engineering Manager	\$60.10	\$98.59	\$18.03	\$176.72
Project Manager II	\$50.48	\$82.81	\$15.14	\$148.43
Project Manager I	\$42.00	\$68.90	\$12.60	\$123.50
Senior Project Manager	\$64.90	\$106.47	\$19.47	\$190.84
Project Engineer	\$44.00	\$72.18	\$13.20	\$129.38
Engineer IV	\$42.00	\$68.90	\$12.60	\$123.50
Engineer III	\$38.00	\$62.34	\$11.40	\$111.74
Engineer II	\$33.00	\$54.13	\$9.90	\$97.03
Engineer I	\$31.00	\$50.85	\$9.30	\$91.15
Contract Administrator	\$48.56	\$79.66	\$14.57	\$142.79
Project Coordinator II	\$33.50	\$54.95	\$10.05	\$98.50
Project Coordinator I	\$26.00	\$42.65	\$7.80	\$76.45
Design Technician IV	\$33.00	\$54.13	\$9.90	\$97.03
Design Technician III	\$31.50	\$51.67	\$9.45	\$92.62
Design Technician II	\$30.00	\$49.21	\$9.00	\$88.21
Design Technician I	\$28.50	\$46.75	\$8.55	\$83.80
Landscape Manager	\$57.69	\$94.63	\$17.31	\$169.63
Landscape Project Manager	\$38.46	\$63.09	\$11.54	\$113.09
Landscape Architect II	\$37.00	\$60.69	\$11.10	\$108.79
Landscape Architect I	\$36.00	\$59.05	\$10.80	\$105.85
Landscape Designer III	\$35.00	\$57.41	\$10.50	\$102.91
Landscape Designer II	\$34.00	\$55.77	\$10.20	\$99.97
Landscape Designer I	\$24.50	\$40.19	\$7.35	\$72.04
Project Controls	\$57.69	\$94.64	\$17.31	\$169.64
Accounting Manager	\$49.52	\$81.23	\$14.86	\$145.61
Project Accountant	\$36.00	\$59.05	\$10.80	\$105.85
Administrative Assistant	\$30.00	\$49.21	\$9.00	\$88.21
Clerical	\$23.00	\$37.73	\$6.90	\$67.63
Public Involvement Manager	\$39.42	\$64.66	\$11.83	\$115.91
Public Involvement Coordinator	\$25.00	\$41.01	\$7.50	\$73.51

UAV Pilot		\$33.00		\$54.13		\$9.90		\$97.03
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**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

May 21, 2018

MacKay Sposito
1325 SE Tech Center Drive, Suite 140
Vancouver, WA 98683

Subject: Acceptance FYE 2017 ICR – Audit Office Review

Dear Ms. Kristen Kern:

Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2017 Indirect Cost Rate (ICR) of 164.04%. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
May 21 2018 9:46 AM

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit E

Sub-consultant Cost Computations

Per the attached fee schedules and by reference hereto made a part of this agreement.

City of Vancouver
Transportation On - Call Rate Schedule
As of June 2018

Classification	Maximum Hourly Rate	Overhead @ 211.41%	Profit @ 30%	Hourly Billing Rate*
Senior Principal Engineer/Planner	\$89.12	\$188.41	\$26.74	\$304.26
Principal Engineer/Planner	\$70.27	\$148.56	\$21.08	\$239.91
Associate Engineer/Planner	\$62.63	\$132.41	\$18.79	\$213.83
Senior Engineer/Planner	\$50.95	\$107.71	\$15.29	\$173.95
Engineer/Planner	\$45.24	\$95.64	\$13.57	\$154.45
Transportation Analyst	\$34.80	\$73.57	\$10.44	\$118.81
Technician I	\$31.17	\$65.90	\$9.35	\$106.42
Technician II	\$34.03	\$71.94	\$10.21	\$116.18
Senior Technician	\$39.77	\$84.08	\$11.93	\$135.78
Associate Technician	\$50.74	\$107.27	\$15.22	\$173.23
Office Support	\$27.43	\$57.99	\$8.23	\$93.65

** Maximum classification rates by category are shown above . Actual wage rates will be invoiced, overhead and profit will be locked for the duration of the contract.*



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

December 15, 2017

Kittelson & Associates, Inc.
610 SW Alder Street, Suite 700
Portland, OR 97205

Subject: Acceptance FYE 2016 ICR – CPA Report

Dear Ms. Janette Lennon:

We have accepted your firms FYE 2016 Indirect Cost Rate (ICR) of 211.41% based on the "Independent CPA Report," prepared by D.L. Purvine, CPA. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik

cc:sign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number: 90209

Exhibit G

Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Vancouver
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: 90209

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Mackay Sposito
whose address is
1325 SE Tech Center Drive, Suite 140 Vancouver, Washington 98683
and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Vancouver
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Mackay Sposito

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90209

Exhibit G-1 (b)
Certification of Agency Official

I hereby certify I am the Agency Official of the Local Agency of the City of Vancouver, Washington, and the consulting firm or its representative has not been required, directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Eric Holmes, City Manager

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Mackay Sposito

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90209

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Mackay Sposito

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90209

Exhibit G-4
Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4 submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of On-call engineering services are accurate, complete, and current as of July 16th, 2018. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm: Mackay Sposito

Signature: _____

Print Name: _____

Title: _____

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number: 90209

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number: 90209

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

E-VERIFY

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon City request. Failure by Contractor to comply with this subsection shall be considered a material breach.

Initials:

Consultant _____

City _____

Accessibility for the Disabled

Any consulting services, whatsoever, provided for under the terms of this agreement shall comply with all local, State and Federal statutes applicable to the accessibility of the disabled, including but not limited to, the Architectural Barriers Act (ABA), Uniform Federal Accessibility Standards (UFAS), and Americans with Disabilities Act (ADA).

Initials:

Consultant _____

City _____

Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: 90211

Does this Require DES filing? ☐ Yes ☒ No

Firm/Organization Legal Name (do not use dba's): Murrysmith			
Address 400 East Mill Plain Blvd. Vancouver, WA 98660		Federal Aid Number	
UBI Number		Federal TIN or SSN Number 93-0768555	
Execution Date July 16th, 2018		Completion Date July 15th, 2022	
1099 Form Required ☒ Yes ☐ No		Federal Participation ☒ Yes ☐ No	
Project Title On-Call Engineering Services			
Description of Work Miscellaneous engineering and other related professional services - to be determined (TBD)			
☐ Yes (TBD) % ☐ No DBE Participation ☐ Yes (TBD) % ☐ No MBE Participation ☐ Yes (TBD) % ☐ No WBE Participation ☐ Yes (TBD) % ☐ No SBE Participation		Maximum Amount Payable: \$500,000.00	

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation/SBE Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number: 90211

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the "AGENCY," and the "Firm/Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absents of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8433

If to CONSULTANT:

Name: Brent Gruber
Agency: Murrysmith
Address: 400 East Mill Plain Blvd
City: Vancouver State: WA Zip: 98660
Email: Brent.Gruber@murrysmith.us
Phone: 360-448-4230
Facsimile: 360-345-6865

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

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V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

- B. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT'S Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.
- The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.
- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.
- An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each Task Order unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE), the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

Agreement Number: 90211

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and/or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or the AGENCY, its agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

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

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Agreement Number: 90211

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8426

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

Agreement Number: 90211

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

Agreement Number: 90211

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number: 90211

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XIX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe

Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

DATED this _____ day of _____, 2018

CITY OF VANCOUVER, a municipal corporation

BY: _____
Eric Holmes, City Manager

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

MURRYSMITH, Contractor

BY: _____
Title _____

Approved as to form:

E. Bronson Potter, City Attorney

Exhibit A ***Scope of Work***

Project No. N/A

On-call professional engineering services and other related professional services for the City of Vancouver Transportation Division per Request for Qualifications #14-18 (RFQu) and the respondents response to said RFQu on file in City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

Agreement Number: 90211

Exhibit B
DBE Participation/SBE Plan

TBD

Agreement Number: 90211

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

ORACLE

B. Electronic Messaging System

OUTLOOK

C. File Transfers Format

TBD

Exhibit D
Prime Consultant Cost Computations

Per the attached fee schedule and by reference hereto made a part of this agreement

Agreement Number: 90211

Salary Rate Schedule

Murraysmith

Data as of date:

1/25/2018

		Escalation Rate	1.035	1.035
Classification*			2018	2019
Principal Engineer VI	Average		\$ 83.00	\$ 85.91
Principal Engineer VI	Maximum		\$ 87.98	\$ 91.06
Principal Engineer V	Average		\$ 74.52	\$ 77.13
Principal Engineer V	Maximum		\$ 74.52	\$ 77.13
Principal Engineer IV	Average		\$ 78.04	\$ 80.77
Principal Engineer IV	Maximum		\$ 80.91	\$ 83.74
Principal Engineer III	Average		\$ 70.26	\$ 72.72
Principal Engineer III	Maximum		\$ 70.40	\$ 72.86
Principal Engineer II	Average		\$ 67.13	\$ 69.48
Principal Engineer II	Maximum		\$ 70.25	\$ 72.71
Principal Engineer I	Average		\$ 61.07	\$ 63.21
Principal Engineer I	Maximum		\$ 64.20	\$ 66.45
Professional Engineer IX	Average		\$ 55.69	\$ 57.64
Professional Engineer IX	Maximum		\$ 56.69	\$ 58.67
Professional Engineer VIII	Average		\$ 56.32	\$ 58.29
Professional Engineer VIII	Maximum		\$ 57.64	\$ 59.66
Professional Engineer VII	Average		\$ 51.41	\$ 53.21
Professional Engineer VII	Maximum		\$ 55.00	\$ 56.93
Professional Engineer VI	Average		\$ 46.44	\$ 48.06
Professional Engineer VI	Maximum		\$ 51.49	\$ 53.29
Professional Engineer V	Average		\$ 43.67	\$ 45.20
Professional Engineer V	Maximum		\$ 45.40	\$ 46.99
Professional Engineer IV	Average		\$ 40.59	\$ 42.01
Professional Engineer IV	Maximum		\$ 41.21	\$ 42.65
Professional Engineer III	Average		\$ 36.74	\$ 38.03
Professional Engineer III	Maximum		\$ 41.00	\$ 42.44
Engineering Designer VII	Average		\$ 51.49	\$ 53.29
Engineering Designer VII	Maximum		\$ 51.49	\$ 53.29
Engineering Designer VI	Average		\$ 38.46	\$ 39.81
Engineering Designer VI	Maximum		\$ 38.46	\$ 39.81
Engineering Designer III	Average		\$ 34.38	\$ 35.58
Engineering Designer III	Maximum		\$ 36.52	\$ 37.80
Engineering Designer II	Average		\$ 29.47	\$ 30.50
Engineering Designer II	Maximum		\$ 30.09	\$ 31.14

Data as of date:

1/25/2018

		Escalation Rate	1.035 2018	1.035 2019
Classification*				
Engineering Designer I	Average		\$ 29.26	\$ 30.28
Engineering Designer I	Maximum		\$ 30.61	\$ 31.68
Technician IV	Average		\$ 38.23	\$ 39.56
Technician IV	Maximum		\$ 40.60	\$ 42.02
Technician III	Average		\$ 32.78	\$ 33.93
Technician III	Maximum		\$ 33.80	\$ 34.98
Administrative III	Average		\$ 40.14	\$ 41.54
Administrative III	Maximum		\$ 40.14	\$ 41.54
Administrative II	Average		\$ 26.40	\$ 27.32
Administrative II	Maximum		\$ 28.00	\$ 28.98
Administrative I	Average		\$ 17.57	\$ 18.18
Administrative I	Maximum		\$ 20.58	\$ 21.30



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

October 20, 2017

Murray Smith & Associates, Inc.
888 SW 5th Avenue, Suite 1170
Portland, OR 97204

Subject: Acceptance FYE 2016 ICR – Cognizant Review

Dear Ms. Celeste Alvarez:

We have accepted your firms FYE 2016 Indirect Cost Rate (ICR) of 202.74% based on the "Cognizant Review" from The Oregon Department of Transportation (ODOT). This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

 Jonson, Erik
cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit E

Sub-consultant Cost Computations

Per the attached fee schedules and by reference hereto made a part of this agreement.

**City of Vancouver
Transportation On - Call Rate Schedule
As of June 2018**

Classification	Maximum Hourly Rate	Overhead @ 211.41%	Profit @ 30%	Hourly Billing Rate*
Senior Principal Engineer/Planner	\$89.12	\$188.41	\$26.74	\$304.26
Principal Engineer/Planner	\$70.27	\$148.56	\$21.08	\$239.91
Associate Engineer/Planner	\$62.63	\$132.41	\$18.79	\$213.83
Senior Engineer/Planner	\$50.95	\$107.71	\$15.29	\$173.95
Engineer/Planner	\$45.24	\$95.64	\$13.57	\$154.45
Transportation Analyst	\$34.80	\$73.57	\$10.44	\$118.81
Technician I	\$31.17	\$65.90	\$9.35	\$106.42
Technician II	\$34.03	\$71.94	\$10.21	\$116.18
Senior Technician	\$39.77	\$84.08	\$11.93	\$135.78
Associate Technician	\$50.74	\$107.27	\$15.22	\$173.23
Office Support	\$27.43	\$57.99	\$8.23	\$93.65

** Maximum classification rates by category are shown above . Actual wage rates will be invoiced, overhead and profit will be locked for the duration of the contract.*



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

December 15, 2017

Kittelson & Associates, Inc.
610 SW Alder Street, Suite 700
Portland, OR 97205

Subject: Acceptance FYE 2016 ICR – CPA Report

Dear Ms. Janette Lennon:

We have accepted your firms FYE 2016 Indirect Cost Rate (ICR) of 211.41% based on the "Independent CPA Report," prepared by D.L. Purvine, CPA. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

 Jonson, Erik
cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

2018
City of Vancouver
PBS Engineering And Environmental
171.62% OH

<u>Classification</u>	<u>Rate</u>
1000: Principal Engineer	215.00
1001: Engineer VIII	185.00
1002: Engineer VII	180.00
1003: Engineer VI	160.00
1004: Engineer V	145.00
1010: Engineer IV	135.00
1011: Engineer III	120.00
1012: Engineer II	100.00
1013: Engineer I	95.00
1020: Design Technician IV	110.00
1021: Design Technician III	100.00
1031: Engineering Geologist I	110.00
1040: Landscape/Planning V	165.00
1041: Landscape/Planning IV	125.00
1066: Construction II	95.00
1067: Construction I	85.00
1080: Survey VI (PLS Principal)	175.00
1082: Survey IV (PLS)	145.00
1084: Survey II (Technician)	84.00
1085: Survey I (Assistant)	71.00
1095: Unmanned Aircraft Sys. Op.	90.00
2000: Principal Geologist/Manager	190.00
2011: Sr. Hydrogeologist II	145.00
2020: Sr. Geologist I	140.00
2029: Project Geologist/Scientist/Planner II	150.00
2050: Staff Geologist/Scientist/Planner	70.00
3000:Principal-Industrial Hygiene	190.00
3001: Certified Ind. Hygienist II	135.00
3002: Sr. Industrial Hygienist I	120.00
3002: Sr. Industrial Hygienist II	130.00
3010:Sr. Proj Manager-Ind Hygiene	105.00
3011: Certified Ind. Hygienist I	95.00
3012: Trainer / Safety Specialist	85.00
3020: Proj. Manager-Ind Hygiene	95.00
3030: Ind Hygienist/AHERA Insp	90.00
3031: Industrial Hygienist/Monitor	75.00
4000: Principal Scientist/Planner	190.00
4010: Senior Scientist/Planner	140.00
4011: Sr Environ/Regulatory Spec.	130.00
4013:Sr Environ Compliance Monitor	120.00
4020: Proj Envir/Regulatory Spec	115.00
4021:Proj Environ Compl Monitor	105.00
4033: Field Scientist/Planner	60.00
5000: Public Involvement	100.00
5002: IT / Database Management	110.00
5003: CAD Manager	117.00
5004: Project Administrator II	98.00
5005: CAD / Micro Station Tech I	75.00
5006: Graphic Artist	90.00
5007: Writer / Editor	90.00
5008: Project Administrator I	73.00
5009: Administration	65.00

2018
City of Vancouver
PBS Engineering And Environmental
171.62% OH

<u>Classification</u>	<u>Rate</u>
1000: Principal Engineer	215.00
1001: Engineer VIII	185.00
1002: Engineer VII	180.00
1003: Engineer VI	160.00
1004: Engineer V	145.00
1010: Engineer IV	135.00
1011: Engineer III	120.00
1012: Engineer II	100.00
1013: Engineer I	95.00
1020: Design Technician IV	110.00
1021: Design Technician III	100.00
1031: Engineering Geologist I	110.00
1040: Landscape/Planning V	165.00
1041: Landscape/Planning IV	125.00
1066: Construction II	95.00
1067: Construction I	85.00
1080: Survey VI (PLS Principal)	175.00
1082: Survey IV (PLS)	145.00
1084: Survey II (Technician)	84.00
1085: Survey I (Assistant)	71.00
1095: Unmanned Aircraft Sys. Op.	90.00
2000: Principal Geologist/Manager	190.00
2011: Sr. Hydrogeologist II	145.00
2020: Sr. Geologist I	140.00
2029: Project Geologist/Scientist/Planner II	150.00
2050: Staff Geologist/Scientist/Planner	70.00
3000:Principal-Industrial Hygiene	190.00
3001: Certified Ind. Hygienist II	135.00
3002: Sr. Industrial Hygienist I	120.00
3002: Sr. Industrial Hygienist II	130.00
3010:Sr. Proj Manager-Ind Hygiene	105.00
3011: Certified Ind. Hygienist I	95.00
3012: Trainer / Safety Specialist	85.00
3020: Proj. Manager-Ind Hygiene	95.00
3030: Ind Hygienist/AHERA Insp	90.00
3031: Industrial Hygienist/Monitor	75.00
4000: Principal Scientist/Planner	190.00
4010: Senior Scientist/Planner	140.00
4011: Sr Environ/Regulatory Spec.	130.00
4013:Sr Environ Compliance Monitor	120.00
4020: Proj Envir/Regulatory Spec	115.00
4021:Proj Environ Compl Monitor	105.00
4033: Field Scientist/Planner	60.00
5000: Public Involvement	100.00
5002: IT / Database Management	110.00
5003: CAD Manager	117.00
5004: Project Administrator II	98.00
5005: CAD / Micro Station Tech I	75.00
5006: Graphic Artist	90.00
5007: Writer / Editor	90.00
5008: Project Administrator I	73.00
5009: Administration	65.00



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

May 7, 2018

PBS Engineering & Environmental Inc.
4412 SW Corbett Avenue
Portland, OR 97239

Subject: Acceptance FYE 2017 ICR – Risk Assessment Review

Dear Mr. Bart Phillips:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2017 ICR of 171.62%. These rates are applicable to Washington Local Agency Contracts only. These rates may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
May 9 2018 7:16 AM

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number: 90211

Exhibit G

Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Vancouver
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: 90211

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Murrysmith
whose address is
400 East Mill Plain Blvd, Vancouver, Washington 98660
and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Vancouver
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Murrysmith

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90211

Exhibit G-1 (b)
Certification of Agency Official

I hereby certify I am the Agency Official of the Local Agency of the City of Vancouver, Washington, and the consulting firm or its representative has not been required, directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Eric Holmes, City Manager

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Murrysmith

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90210

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Murrysmith

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90210

Exhibit G-4
Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4 submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of On-call engineering services are accurate, complete, and current as of July 16th, 2018. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm: Murrysmith

Signature: _____

Print Name: _____

Title: _____

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

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Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

- ✦ The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number: 90211

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

E-VERIFY

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon City request. Failure by Contractor to comply with this subsection shall be considered a material breach.

Initials:

Consultant _____

City _____

Accessibility for the Disabled

Any consulting services, whatsoever, provided for under the terms of this agreement shall comply with all local, State and Federal statutes applicable to the accessibility of the disabled, including but not limited to, the Architectural Barriers Act (ABA), Uniform Federal Accessibility Standards (UFAS), and Americans with Disabilities Act (ADA).

Initials:

Consultant _____

City _____

Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: 90219

Does this Require DES filing? ☐ Yes ☒ No

Firm/Organization Legal Name (do not use dba's): Otak, Inc.	
Address 700 Washington Street, # 300 Vancouver WA 98660	Federal Aid Number
UBI Number	Federal TIN or SSN Number 93-0788869
Execution Date July 16th, 2018	Completion Date July 15th, 2022
1099 Form Required ☒ Yes ☐ No	Federal Participation ☒ Yes ☐ No
Project Title On-Call Engineering Services	
Description of Work Miscellaneous engineering and other related professional services - to be determined (TBD)	
☐ Yes (TBD) % ☐ No DBE Participation ☐ Yes (TBD) % ☐ No MBE Participation ☐ Yes (TBD) % ☐ No WBE Participation ☐ Yes (TBD) % ☐ No SBE Participation	Maximum Amount Payable: \$500,000.00

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation/SBE Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number: 90219

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the "AGENCY," and the "Firm/Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Agreement Number: 90219

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absents of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8433

If to CONSULTANT:

Name: Tim Leavitt, PE
Agency: Otak, Inc.
Address: 700 Washington Street, Suite 300
City: Vancouver State: WA Zip: 98660
Email: tim.leavitt@otak.com
Phone: 360-737-9613
Facsimile: 360-737-9651

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

Agreement Number: 90219

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. **Hourly Rates:** Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

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- B. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT'S Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each Task Order unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE), the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

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to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and/or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or the AGENCY, its agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

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

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8426

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

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XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

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The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XIX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

DATED this _____ day of _____, 2018

CITY OF VANCOUVER, a municipal corporation

BY: _____
Eric Holmes, City Manager

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

OTAK, INC., Contractor

BY: _____
Title _____

Approved as to form:

E. Bronson Potter, City Attorney

Exhibit A ***Scope of Work***

Project No. N/A

On-call professional engineering services and other related professional services for the City of Vancouver Transportation Division per Request for Qualifications #14-18 (RFQu) and the respondents response to said RFQu on file in City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

Agreement Number: 90219

Exhibit B
DBE Participation/SBE Plan |

TBD

Agreement Number: 90219

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

ORACLE

B. Electronic Messaging System

OUTLOOK

C. File Transfers Format

TBD

Exhibit D
Prime Consultant Cost Computations

Per the attached fee schedule and by reference hereto made a part of this agreement.

Agreement Number: 90219

COST INFORMATION
BREAKDOWN OF BILLING RATES AND DIRECT NONLABOR RATES

Otak, Inc.

APPROVED

DIRECT LABOR COSTS

Classification (Examples)	Direct Salary Rate		Overhead 147.19%		Fee 30.00%		Billing Rate	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
PIC/Sr. PM Architecture	\$62.40	\$68.25	\$91.84	\$100.46	\$18.72	\$20.48	\$172.96	\$189.19
Sr. PM - Architecture	\$54.08	\$57.20	\$79.60	\$84.19	\$16.22	\$17.16	\$149.90	\$158.54
Architect III	\$38.48	\$46.51	\$56.64	\$68.45	\$11.54	\$13.95	\$106.67	\$128.91
Architect II	\$35.88	\$37.86	\$52.81	\$55.72	\$10.76	\$11.36	\$99.45	\$104.93
Architect I	\$33.80	\$36.91	\$49.75	\$54.33	\$10.14	\$11.07	\$93.69	\$102.31
Project Manager- Design	\$41.08	\$45.43	\$60.46	\$66.86	\$12.32	\$13.63	\$113.87	\$125.92
Architectural Technician III	\$29.38	\$32.08	\$43.24	\$47.22	\$8.81	\$9.62	\$81.43	\$88.92
Architectural Technician II	\$26.00	\$30.66	\$38.27	\$45.13	\$7.80	\$9.20	\$72.07	\$85.00
Architectural Technician I	\$21.84	\$26.20	\$32.14	\$38.56	\$6.55	\$7.86	\$60.53	\$72.62
	\$0.00	\$0.00						
Sr. PIC/Sr. PM Civil	\$70.20	\$84.63	\$103.32	\$124.57	\$21.06	\$25.39	\$194.58	\$234.59
PIC/Sr. Project Manager Civil	\$65.00	\$73.71	\$95.68	\$108.49	\$19.50	\$22.11	\$180.19	\$204.30
Civil Engineer X	\$60.32	\$63.88	\$88.79	\$94.03	\$18.10	\$19.16	\$167.20	\$177.07
Civil Engineer IX	\$57.30	\$62.84	\$84.34	\$92.49	\$17.19	\$18.85	\$158.84	\$174.18
Civil Engineer VIII	\$49.75	\$57.33	\$73.23	\$84.38	\$14.93	\$17.20	\$137.91	\$158.91
Civil Engineer VII	\$48.67	\$51.39	\$71.64	\$75.64	\$14.60	\$15.42	\$134.91	\$142.45
Civil Engineer VI	\$44.50	\$48.27	\$65.50	\$71.04	\$13.35	\$14.48	\$123.34	\$133.79
Civil Engineer V	\$42.49	\$46.42	\$62.53	\$68.32	\$12.75	\$13.92	\$117.76	\$128.66
Civil Engineer IV	\$39.00	\$42.59	\$57.41	\$62.69	\$11.70	\$12.78	\$108.11	\$118.06
Civil Engineer III	\$35.62	\$39.41	\$52.42	\$58.00	\$10.69	\$11.82	\$98.73	\$109.24
Civil Engineer II	\$31.37	\$34.29	\$46.17	\$50.47	\$9.41	\$10.29	\$86.94	\$95.04
Civil Engineer I	\$27.85	\$32.76	\$40.99	\$48.23	\$8.36	\$9.83	\$77.20	\$90.82
Engineering Designer IV	\$34.07	\$39.32	\$50.15	\$57.87	\$10.22	\$11.80	\$94.44	\$108.98
Engineering Designer III	\$29.48	\$32.76	\$43.40	\$48.23	\$8.85	\$9.83	\$81.73	\$90.82
Engineering Designer II	\$27.04	\$29.48	\$39.80	\$43.39	\$8.11	\$8.84	\$74.95	\$81.72
Engineering Designer I	\$24.70	\$26.21	\$36.36	\$38.58	\$7.41	\$7.86	\$68.48	\$72.66
Engineering Technician VI	\$36.76	\$40.15	\$54.11	\$59.09	\$11.03	\$12.04	\$101.90	\$111.28
Engineering Technician V	\$31.82	\$37.13	\$46.84	\$54.64	\$9.55	\$11.14	\$88.20	\$102.91
Engineering Technician IV	\$28.60	\$31.89	\$42.09	\$46.94	\$8.58	\$9.57	\$79.27	\$88.40
Engineering Technician III	\$27.04	\$28.12	\$39.80	\$41.39	\$8.11	\$8.44	\$74.95	\$77.94
Engineering Technician II	\$23.06	\$24.98	\$33.94	\$36.78	\$6.92	\$7.50	\$63.92	\$69.26
Engineering Technician I	\$20.01	\$24.98	\$29.45	\$36.78	\$6.00	\$7.50	\$55.46	\$69.26
Field Representative	\$37.86	\$53.38	\$55.72	\$78.57	\$11.36	\$16.01	\$104.93	\$147.96
	\$0.00	\$0.00						
Sr. PIC/Sr. PM LA/Master Planner	\$63.81	\$79.17	\$93.93	\$116.53	\$19.14	\$23.75	\$176.89	\$219.45
PIC/Sr. PM LA/Master Planner	\$56.68	\$60.88	\$83.42	\$89.61	\$17.00	\$18.27	\$157.10	\$168.76
Landscape Architect V	\$40.56	\$43.68	\$59.70	\$64.29	\$12.17	\$13.10	\$112.43	\$121.07
Landscape Architect IV	\$36.92	\$40.95	\$54.34	\$60.28	\$11.07	\$12.29	\$102.32	\$113.52
Landscape Architect III	\$33.80	\$38.22	\$49.75	\$56.25	\$10.14	\$11.46	\$93.69	\$105.93
Landscape Architect II	\$25.69	\$32.76	\$37.81	\$48.23	\$7.71	\$9.83	\$71.20	\$90.82
Landscape Technician III	\$26.00	\$35.49	\$38.27	\$52.24	\$7.80	\$10.65	\$72.07	\$98.37
Landscape Technician II	\$24.44	\$26.21	\$35.98	\$38.58	\$7.33	\$7.86	\$67.76	\$72.66
Landscape Technician I	\$21.63	\$24.56	\$31.84	\$36.16	\$6.49	\$7.37	\$59.96	\$68.09
Urban Designer V	\$57.20	\$60.05	\$84.19	\$88.39	\$17.16	\$18.02	\$158.54	\$166.47
Urban Designer IV	\$46.80	\$52.85	\$68.89	\$77.80	\$14.04	\$15.86	\$129.73	\$146.51
Urban Designer II	\$34.63	\$43.68	\$50.98	\$64.29	\$10.39	\$13.10	\$96.00	\$121.07
Graphics Specialist	\$29.71	\$32.76	\$43.73	\$48.23	\$8.91	\$9.83	\$82.36	\$90.82
	\$0.00	\$0.00						

COST INFORMATION
BREAKDOWN OF BILLING RATES AND DIRECT NONLABOR RATES

Otak, Inc.

APPROVED

DIRECT LABOR COSTS

Classification (Examples)	Direct Salary Rate		Overhead 147.19%		Fee 30.00%		Billing Rate	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Sr. Proj. Mgr. - Planner II	\$59.80	\$67.16	\$88.02	\$98.86	\$17.94	\$20.15	\$165.76	\$186.17
Sr. Proj. Mgr. - Planner I	\$50.71	\$59.06	\$74.63	\$86.92	\$15.21	\$17.72	\$140.55	\$163.70
Planner III	\$44.20	\$48.27	\$65.07	\$71.04	\$13.26	\$14.48	\$122.53	\$133.79
Planner II	\$31.20	\$40.95	\$45.93	\$60.28	\$9.36	\$12.29	\$86.49	\$113.52
Planner I	\$28.60	\$30.03	\$42.09	\$44.20	\$8.58	\$9.01	\$79.27	\$83.23
Planner Associate III	\$24.96	\$31.12	\$36.74	\$45.80	\$7.49	\$9.34	\$69.20	\$86.25
Planner Associate II	\$22.88	\$24.02	\$33.67	\$35.35	\$6.86	\$7.21	\$63.41	\$66.58
Planner Associate I	\$21.84	\$23.28	\$32.14	\$34.27	\$6.55	\$6.98	\$60.53	\$64.53
Sr. GIS Specialist Planner	\$32.13	\$33.74	\$47.30	\$49.66	\$9.64	\$10.12	\$89.07	\$93.53
	\$0.00	\$0.00						
Scientist IV	\$41.99	\$47.51	\$61.80	\$69.92	\$12.60	\$14.25	\$116.39	\$131.68
Scientist III	\$39.37	\$45.87	\$57.95	\$67.52	\$11.81	\$13.76	\$109.13	\$127.15
Scientist II	\$27.04	\$28.39	\$39.80	\$41.79	\$8.11	\$8.52	\$74.95	\$78.70
Scientist I	\$22.50	\$23.62	\$33.11	\$34.77	\$6.75	\$7.09	\$62.36	\$65.48
	\$0.00	\$0.00						
PIC/PLS - Sr. Manager	\$63.18	\$73.71	\$92.99	\$108.49	\$18.95	\$22.11	\$175.12	\$204.30
PLS Sr. Manager	\$43.42	\$55.69	\$63.90	\$81.98	\$13.02	\$16.71	\$120.34	\$154.38
PLS Project Manager	\$41.10	\$43.16	\$60.50	\$63.52	\$12.33	\$12.95	\$113.93	\$119.62
Sr. Professional Land Surveyor	\$36.40	\$42.04	\$53.57	\$61.88	\$10.92	\$12.61	\$100.89	\$116.54
Professional Land Surveyor	\$30.70	\$34.07	\$45.18	\$50.15	\$9.21	\$10.22	\$85.09	\$94.44
Survey Technician	\$29.74	\$35.21	\$43.78	\$51.82	\$8.92	\$10.56	\$82.45	\$97.59
Survey Tech II, Sr. Field Party Chief	\$24.88	\$31.80	\$36.62	\$46.81	\$7.46	\$9.54	\$68.96	\$88.14
Sr. Field Survey Technician II	\$23.80	\$29.53	\$35.02	\$43.46	\$7.14	\$8.86	\$65.96	\$81.85
Sr. Field Survey Technician I	\$21.09	\$23.85	\$31.04	\$35.10	\$6.33	\$7.15	\$58.46	\$66.11
Field Survey Tech	\$16.76	\$20.44	\$24.68	\$30.09	\$5.03	\$6.13	\$46.47	\$56.66
	\$0.00	\$0.00						
Project Administrative Assistant	\$24.60	\$25.83	\$36.20	\$38.01	\$7.38	\$7.75	\$68.18	\$71.59
Contract Administrator	\$29.24	\$30.70	\$43.03	\$45.18	\$8.77	\$9.21	\$81.04	\$85.09

Note:

All travel will be billed per WSDOT Travel Regulations;
 All sub-consultant costs and direct reimbursables will be at cost with no mark-ups; and
 The max. rates include 5% escalation.



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

December 11, 2017

Otak, Inc.
808 SW Third Avenue, Suite 300
Portland, OR 97204-2426

Subject: Acceptance FYE 2016 ICR – Cognizant Review

Dear Shawn Goodpaster:

We have accepted your firms FYE 2016 Indirect Cost Rate (ICR) of 147.19% based on the "Cognizant Review" from The Oregon Department of Transportation. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit E

Sub-consultant Cost Computations

Per the attached fee schedules and by reference hereto made a part of this agreement.

Agreement Number: 90219

Consultant Fee Determination - Summary Sheet



Standard DKS Billing Grades	Maximum Direct Salary	Overhead	Fixed Fee	Maximum Billing Rate
Tech Level A	\$ 9.67	175.54%	30.0%	\$ 29.55
Tech Level B	\$ 9.82	175.54%	30.0%	\$ 30.00
Tech Level C	\$ 11.46	175.54%	30.0%	\$ 35.00
Tech Level D/Grade 1	\$ 13.09	175.54%	30.0%	\$ 40.00
Tech Level E/Grade 2	\$ 14.73	175.54%	30.0%	\$ 45.00
Tech Level F/Grade 3	\$ 16.36	175.54%	30.0%	\$ 50.00
Tech Level G/Grade 4	\$ 18.00	175.54%	30.0%	\$ 55.00
Tech Level H/Grade 5	\$ 19.64	175.54%	30.0%	\$ 60.00
Tech Level I/Grade 6	\$ 21.27	175.54%	30.0%	\$ 65.00
Tech Level J/Grade 7	\$ 22.91	175.54%	30.0%	\$ 70.00
Tech Level K/Grade 8	\$ 24.55	175.54%	30.0%	\$ 75.00
Tech Level L/Grade 9	\$ 26.18	175.54%	30.0%	\$ 80.00
Tech Level M/Grade 10	\$ 27.82	175.54%	30.0%	\$ 85.00
Tech Level N/Grade 11	\$ 29.46	175.54%	30.0%	\$ 90.00
Tech Level O/Grade 12	\$ 31.09	175.54%	30.0%	\$ 95.00
Tech Level P/Grade 13	\$ 32.73	175.54%	30.0%	\$ 100.00
Tech Level Q/Grade 14	\$ 34.37	175.54%	30.0%	\$ 105.00
Tech Level R/Grade 15	\$ 36.00	175.54%	30.0%	\$ 110.00
Tech Level S/Grade 16	\$ 37.64	175.54%	30.0%	\$ 115.00
Tech Level T/Grade 17	\$ 39.27	175.54%	30.0%	\$ 120.00
Tech Level U/Grade 18	\$ 40.91	175.54%	30.0%	\$ 125.00
Tech Level V/Grade 19	\$ 42.55	175.54%	30.0%	\$ 130.00
Tech Level W/Grade 20	\$ 44.18	175.54%	30.0%	\$ 135.00
Tech Level X/Grade 21	\$ 45.82	175.54%	30.0%	\$ 140.00
Tech Level Y/Grade 22	\$ 47.46	175.54%	30.0%	\$ 145.00
Tech Level Z/Grade 23	\$ 49.09	175.54%	30.0%	\$ 150.00
Grade 24	\$ 50.73	175.54%	30.0%	\$ 155.00
Grade 25	\$ 52.37	175.54%	30.0%	\$ 160.00
Grade 26	\$ 54.00	175.54%	30.0%	\$ 165.00
Grade 27	\$ 55.64	175.54%	30.0%	\$ 170.00
Grade 28	\$ 57.28	175.54%	30.0%	\$ 175.00
Grade 29	\$ 58.91	175.54%	30.0%	\$ 180.00
Grade 30	\$ 60.55	175.54%	30.0%	\$ 185.00
Grade 31	\$ 62.18	175.54%	30.0%	\$ 190.00
Grade 32	\$ 63.82	175.54%	30.0%	\$ 195.00
Grade 33	\$ 65.46	175.54%	30.0%	\$ 200.00
Grade 34	\$ 67.09	175.54%	30.0%	\$ 205.00
Grade 35	\$ 68.73	175.54%	30.0%	\$ 210.00
Grade 36	\$ 70.37	175.54%	30.0%	\$ 215.00
Grade 37	\$ 72.00	175.54%	30.0%	\$ 220.00
Grade 38	\$ 73.64	175.54%	30.0%	\$ 225.00
Grade 39	\$ 75.28	175.54%	30.0%	\$ 230.00
Grade 40	\$ 76.91	175.54%	30.0%	\$ 235.00
Grade 41	\$ 78.55	175.54%	30.0%	\$ 240.00
Grade 42	\$ 80.19	175.54%	30.0%	\$ 245.00
Grade 43	\$ 81.82	175.54%	30.0%	\$ 250.00
Grade 44	\$ 83.46	175.54%	30.0%	\$ 255.00
Grade 45	\$ 85.10	175.54%	30.0%	\$ 260.00
Grade 46	\$ 86.73	175.54%	30.0%	\$ 265.00
Grade 47	\$ 88.37	175.54%	30.0%	\$ 270.00
Grade 48	\$ 90.00	175.54%	30.0%	\$ 275.00
Grade 49	\$ 91.64	175.54%	30.0%	\$ 280.00
Grade 50	\$ 93.28	175.54%	30.0%	\$ 285.00
Grade 51	\$ 94.92	175.54%	30.0%	\$ 290.00
Grade 52	\$ 96.56	175.54%	30.0%	\$ 295.00
Grade 53	\$ 98.20	175.54%	30.0%	\$ 300.00
Grade 54	\$ 99.84	175.54%	30.0%	\$ 305.00
Grade 55	\$ 101.48	175.54%	30.0%	\$ 310.00

Project expenses will be billed at cost for service and handling. Project expenses include project-related costs such as reproduction through outside services, transportation, subsistence, delivery/postage and subcontractor services.

Reimbursable costs are billed as follows:

- 8-1/2 x 11 B/W, at cost, up to \$0.10 per page
- 11 x 17 B/W bond, at cost, up to \$0.50 per page
- 24 x 36 B/W bond, at cost, up to \$1.00 per page
- 11 x 17 B/W mylar, at cost, up to \$3.50 per page
- 24 x 36 B/W mylar, at cost, up to \$7.00 per page
- 8-1/2 x 11 color, at cost, up to \$0.90 per page
- 11 x 17 color, at cost, up to \$1.75 per page



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

April 18, 2017

DKS Associates, Inc.
719 Second Avenue, Suite 1250
Seattle, WA 98104

Subject: Acceptance FYE 2016 ICR – Cognizant Review

Dear Ms. Betsy McCarthy:

We have accepted your firms FYE 2016 Indirect Cost Rate (ICR) of 175.54% based on the "Cognizant Review" from The Oregon Department of Transportation. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

ACTUALS NOT TO EXCEED TABLE (ANTE)

Agreement No. Y-11806

Geotechnical Resources, Inc. 1101 Broadway, Suite 130 Vancouver, WA 98660					
Job Classifications	Direct Labor Rates	Overhead 187.83%	Fixed Fee 30%	All Inclusive Hourly	
	NTE	NTE	NTE	Billing Rate	NTE
Principal	\$ 69.33	\$ 130.22	\$ 20.80	\$	220.35
Associate	\$ 62.50	\$ 117.39	\$ 18.75	\$	198.64
Senior Engineer / Geologist	\$ 46.05	\$ 86.50	\$ 13.82	\$	146.36
Project Engineer / Geologist	\$ 40.87	\$ 76.77	\$ 12.26	\$	129.90
Staff Engineer / Geologist	\$ 36.06	\$ 67.73	\$ 10.82	\$	114.61
Engineering Assistant	\$ 25.00	\$ 46.96	\$ 7.50	\$	79.46
CADD / Drafter	\$ 31.08	\$ 58.38	\$ 9.32	\$	98.78
Technical Editor	\$ 36.60	\$ 68.75	\$ 10.98	\$	116.33
Contract Admin / Accountant	\$ 50.31	\$ 94.50	\$ 15.09	\$	159.90
Production / Clerical	\$ 30.01	\$ 56.37	\$ 9.00	\$	95.38

WSDOT Approved OH Rate as of 12/14/16

Max Labor rates as of 11/1/15



Jonson, Erik

cosign

Y-11806 Exhibit D



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

February 16, 2017

Geotechnical Resources, Inc.
1101 Broadway, Suite 130
Vancouver, WA 98660

Subject: Acceptance Prime Annual ANTE Rate Table

Dear Ms. Tina Olson:

Washington State Department of Transportation (WSDOT) has reviewed and accepted your proposed Annual ANTE rate table for Agreement Number Y-11806. This acceptance is in accordance with the terms of your agreement with WSDOT.

This Annual ANTE rate table may be subject to additional review if considered necessary by WSDOT.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards,

A handwritten signature of Erik K. Jonson in black ink.

Jonson, Erik

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:rck

Enclosure: Prime Accepted Annual ANTE Rate Table

Cc: Bill Hegge



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

December 14, 2016

Geotechnical Resources, Inc.
9725 SW Beaverton Hillsdale Hwy
Beaverton, OR 97005-3364

Subject: Acceptance FYE 2015 ICR – Audit Office Review

Dear Ms. Tina Olson:

Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2015 Indirect Cost Rate (ICR) of 187.83%. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
Dec 14 2016 11:06 AM

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Epic Land Solutions, Inc.
WSDOT Hourly Rates - Actuals Not to Exceed

STAFF CLASSIFICATION	Maximum Fully-Loaded Rate
<u>Right of Way Services</u>	
Principal in Charge	\$221.71
Advisory Manager	\$199.52
Project Manager	\$172.59
Senior Agent	\$133.02
Agent	\$91.37
<u>Project Development Services</u>	
Project Development Manager	\$162.56
Project Development Analyst	\$110.86
<u>Appraisal Services</u>	
Chief Appraiser	\$243.88
Appraiser	\$137.02
<u>Project Support Services</u>	
Finance and Project Controls	\$142.49
Contract Manager	\$121.18
Project Support	\$121.18



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

June 30, 2017

Epic Land Solutions, Inc.
2601 Airport Drive, Suite 115
Torrance, CA 90505

Subject: Acceptance FYE 2016 ICR – Risk Assessment Review

Dear Ms. Mary Kittrelle:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2016 ICR of 179.42%. This rate is applicable to Washington Local Agency Contracts only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Global Transportation Engineering

Safe Harbor Hourly Rate Statement*

Labor Classification	Labor Rate	Indirect Cost		Fixed Fee	Not to Exceed Rate
		Rate			
		110%	30%		
Civil Designer	\$ 39.00	\$ 42.90	\$ 11.70	\$ 93.60	
Civil Designer II	\$ 46.00	\$ 50.60	\$ 13.80	\$ 110.40	
Engineering Assoc 1	\$ 25.00	\$ 27.50	\$ 7.50	\$ 60.00	
Engineering Assoc 2	\$ 30.00	\$ 33.00	\$ 9.00	\$ 72.00	
Engineering Assoc 3	\$ 35.00	\$ 38.50	\$ 10.50	\$ 84.00	
Engineering Assoc 4	\$ 36.00	\$ 39.60	\$ 10.80	\$ 86.40	
Engineering Assoc 5	\$ 37.00	\$ 40.70	\$ 11.10	\$ 88.80	
Engineering Assoc 6	\$ 38.00	\$ 41.80	\$ 11.40	\$ 91.20	
Sr Engineering Assoc 1	\$ 39.00	\$ 42.90	\$ 11.70	\$ 93.60	←
Sr Engineering Assoc 2	\$ 42.00	\$ 46.20	\$ 12.60	\$ 100.80	
Sr Engineering Assoc 3	\$ 45.00	\$ 49.50	\$ 13.50	\$ 108.00	
Sr Engineering Assoc 4	\$ 48.00	\$ 52.80	\$ 14.40	\$ 115.20	
Project Engineer 1	\$ 39.00	\$ 42.90	\$ 11.70	\$ 93.60	
Project Engineer 2	\$ 42.00	\$ 46.20	\$ 12.60	\$ 100.80	
Project Engineer 3	\$ 43.00	\$ 47.30	\$ 12.90	\$ 103.20	
Project Engineer 4	\$ 44.00	\$ 48.40	\$ 13.20	\$ 105.60	
Sr Project Engineer 1	\$ 45.00	\$ 49.50	\$ 13.50	\$ 108.00	←
Sr Project Engineer 2	\$ 48.00	\$ 52.80	\$ 14.40	\$ 115.20	
Sr Project Engineer 3	\$ 50.00	\$ 55.00	\$ 15.00	\$ 120.00	
Sr Project Engineer 4	\$ 52.00	\$ 57.20	\$ 15.60	\$ 124.80	
Sr Project Engineer 5	\$ 55.00	\$ 60.50	\$ 16.50	\$ 132.00	
Sr Project Engineer 6	\$ 60.00	\$ 66.00	\$ 18.00	\$ 144.00	
Sr Project Engineer 7	\$ 65.00	\$ 71.50	\$ 19.50	\$ 156.00	
Tech X	\$ 25.00	\$ 27.50	\$ 7.50	\$ 60.00	
Tech XI	\$ 30.00	\$ 33.00	\$ 9.00	\$ 72.00	
Tech XII	\$ 33.00	\$ 36.30	\$ 9.90	\$ 79.20	←
Principal/Project Manager 1	\$ 45.00	\$ 49.50	\$ 13.50	\$ 108.00	←
Principal/Project Manager 2	\$ 48.00	\$ 52.80	\$ 14.40	\$ 115.20	
Principal/Project Manager 3	\$ 50.00	\$ 55.00	\$ 15.00	\$ 120.00	
Principal/Project Manager 4	\$ 52.00	\$ 57.20	\$ 15.60	\$ 124.80	
Principal/Project Manager 5	\$ 55.00	\$ 60.50	\$ 16.50	\$ 132.00	←
Principal/Project Manager 6	\$ 60.00	\$ 66.00	\$ 18.00	\$ 144.00	
Principal/Project Manager 7	\$ 65.00	\$ 71.50	\$ 19.50	\$ 156.00	

*March 2016



Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

March 1, 2016

Monica T. Leal, Owner
Global Transportation Engineering Corporation
1020 SW Taylor Street
Portland, OR 97205-2543

Re: Global Transportation Engineering Corporation
Safe Harbor Indirect Cost Rate

Dear Ms. Leal:

Washington State has received approval from our local Federal Highway Administration (FHWA) Division to continue administering the "safe harbor" indirect cost rate program on engineering and design related service contracts, as well as for Local Public Agency projects.

We have completed our risk assessment for Global Transportation Engineering Corporation. Our assessment was conducted based on the documentation provided by the firm. The reviewed data included, but was not limited to, a description of the company, basis of accounting, accounting system and the basis of indirect costs. Based on our review, your firm is eligible to use the Safe Harbor rate. You have opted to use the Safe Harbor rate, rather than provide a FAR-complaint rate at this time.

We are issuing the Safe Harbor Indirect Cost Rate of 110% of direct labor with a field rate, where applicable, of 80% of direct labor for Global Transportation Engineering. The Safe Harbor rate is effective on March 1, 2016.

Global Transportation Engineering has agreed to improve Internal Controls and timekeeping processes in order to be able to develop an Indirect Cost Rate Schedule in the future in accordance with the Federal Acquisition Regulations (FAR), Subpart 31. The WSDOT Internal Audit Office has provided guidance and information related to FARs and the AASHTO Audit Guide. The Safe Harbor Rate of 110%, or 80% for field office situations, can be used for agreements entered into prior to December 31, 2018. For agreements entered into after this date, please contact the WSDOT Consultant Services Office (CSO) or our office for guidance.

The Safe Harbor Rate will not be subject to audit. Please coordinate with CSO or your Local Programs contact if you have questions about when to apply the Safe Harbor rate to your agreement.

If you have any questions, please contact me, Jeri Sivertson, or Steve McKerney at (360)705-7003.

Sincerely,

A handwritten signature in black ink, appearing to read 'Schatzie Harvey', written over a horizontal line.

Schatzie Harvey
Agreement Compliance Audit Manager

cc: Steve McKerney, Director of Internal Audit
Jeri Sivertson, Assistant Director of Internal Audit
Larry Schofield, MS 47323
File

CERTIFICATION OF FINAL INDIRECT COSTS – FOR A SAFE HARBOR INDIRECT COST RATE

Firm Name: Global Transportation Engineering Corporation

I, the undersigned, certify that I have reviewed the proposal to establish the Safe Harbor rate.

The firm is electing to use the SAFE HARBOR INDIRECT COST RATE of 110% of direct labor with a field rate, when applicable, of 80% of direct labor. To the best of my knowledge and belief:

- a) The firm has not had a FAR compliant indirect cost rate previously accepted by any other state agency.*
- b) The firm will provide reports as required by the SAFE HARBOR RATE program on their progress toward compliance with the cost principles of the Federal Acquisition Regulations (FAR) of title 48, Code of Federal Regulations (CFR), part 31.*

All known material transactions or events that have occurred affecting the firm's ownership, organization and prior & current indirect cost rates have been disclosed.

The firm agrees to follow the 'Path to Compliance'. Steps noted below:

The Pathway must include:

- *A timekeeping system which includes the Internal Controls described in chapter 6 of AASHTO*
- *An accounting system which separates indirect costs and direct costs*
- *An accounting system which separates allowable and unallowable cost*
- *A compliant job cost system which is general ledger driven*
- *Training for accounting personnel and key management on Part 31 of the Federal Acquisition Regulations, Contract Cost Principles and Procedures*
- *A strong written internal control policy with a policy and procedures manual*

*Signature: _____

*Name of Certifying Official (Print): Dana M. Beckwith

*Title: Vice President

Date of Certification (mm/dd/yyyy): 2/25/2016

*Note: This form is to be completed by an individual executive or financial officer of the consultant at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate proposal submitted in conjunction with the agreement.

JLA 2018 Classifications and Maximum Billing Rates - WSDOT

Note: Use classifications rather than individual names to ensure all eligible staff are available for the project.

Final		Standard Overhead 134% Profit Rate 10.50%		Maximum
Classification	Personnel	Title	2018 pay rate	2018 Billing Rate
Senior Associate 2			\$ 68.27	\$ 176.51
Senior Associate 1			\$ 61.14	\$ 158.08
Public Involvement Specialist 6			\$ 52.75	\$ 136.40
Public Involvement Specialist 5			\$ 46.78	\$ 120.96
Public Involvement Specialist 4			\$ 41.31	\$ 106.80
Public Involvement Specialist 3			\$ 35.60	\$ 92.06
Public Involvement Specialist 2			\$ 31.27	\$ 80.84
Public Involvement Specialist 1			\$ 27.05	\$ 69.95
Administration 5			\$ 43.14	\$ 111.54
Administration 4			\$ 34.79	\$ 89.94
Administration 3			\$ 27.83	\$ 71.96
Administration 2			\$ 22.10	\$ 57.13
Administration 1			\$ 17.40	\$ 44.98



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

May 7, 2018

JLA Public Involvement, Inc.
1110 SE Alder Street, Suite 301
Portland, OR 97214

Subject: Acceptance FYE 2017 ICR – Risk Assessment Review

Dear Ms. Kristen Kibler:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2017 ICR of 133.99%. These rates are applicable to Washington Local Agency Contracts only. These rates may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
May 9 2018 7:16 AM

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number: 90219

Exhibit G

Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Vancouver
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: 90219

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Otak, Inc.

whose address is

700 Washington Street, Suite 300 Vancouver, Washington 98660

and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Vancouver
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Otak, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90219

Exhibit G-1 (b)
Certification of Agency Official

I hereby certify I am the Agency Official of the Local Agency of the City of Vancouver, Washington, and the consulting firm or its representative has not been required, directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Eric Holmes, City Manager

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (I)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Otak, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90219

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Otak, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90218

Exhibit G-4
Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4 submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of On-call engineering services are accurate, complete, and current as of July 16th, 2018. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm: Otak, Inc

Signature: _____

Print Name: _____

Title: _____

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number: 90219

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

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Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

E-VERIFY

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon City request. Failure by Contractor to comply with this subsection shall be considered a material breach.

Initials:

Consultant _____

City _____

Accessibility for the Disabled

Any consulting services, whatsoever, provided for under the terms of this agreement shall comply with all local, State and Federal statutes applicable to the accessibility of the disabled, including but not limited to, the Architectural Barriers Act (ABA), Uniform Federal Accessibility Standards (UFAS), and Americans with Disabilities Act (ADA).

Initials:

Consultant _____

City _____

Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: 90212

Does this Require DES filing? ☐ Yes ☒ No

Firm/Organization Legal Name (do not use dba's): PBS Engineering and Environmental, Inc.										
Address 415 West 6th St., #601, Vancouver WA 98660	Federal Aid Number									
UBI Number	Federal TIN or SSN Number 93-0870218									
Execution Date July 16th, 2018	Completion Date July 15th, 2022									
1099 Form Required ☒ Yes ☐ No	Federal Participation ☒ Yes ☐ No									
Project Title On-Call Engineering Services										
Description of Work Miscellaneous engineering and other related professional services - to be determined (TBD)										
<table style="width: 100%; border: none;"> <tr> <td style="width: 25%;">☐ Yes (TBD) %</td> <td style="width: 25%;">☐ No DBE Participation</td> <td rowspan="4" style="width: 50%; vertical-align: top; padding-left: 20px;">Maximum Amount Payable: \$500,000.00</td> </tr> <tr> <td>☐ Yes (TBD) %</td> <td>☐ No MBE Participation</td> </tr> <tr> <td>☐ Yes (TBD) %</td> <td>☐ No WBE Participation</td> </tr> <tr> <td>☐ Yes (TBD) %</td> <td>☐ No SBE Participation</td> </tr> </table>		☐ Yes (TBD) %	☐ No DBE Participation	Maximum Amount Payable: \$500,000.00	☐ Yes (TBD) %	☐ No MBE Participation	☐ Yes (TBD) %	☐ No WBE Participation	☐ Yes (TBD) %	☐ No SBE Participation
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☐ Yes (TBD) %	☐ No WBE Participation									
☐ Yes (TBD) %	☐ No SBE Participation									

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation/SBE Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

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THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the "AGENCY," and the "Firm/Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

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Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absents of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8433

If to CONSULTANT:

Name: Greg Jellison
Agency: PBS Engineering and Environmental, Inc.
Address: 415 West 6th Street, Suite 601
City: Vancouver State: WA Zip: 98660
Email: greg.jellison@pbsusa.com
Phone: 360-695-9488
Facsimile: 360-727-0140

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

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V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. **Hourly Rates:** Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

- B. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT'S Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each Task Order unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE), the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

Agreement Number: 90212

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and/or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or the AGENCY, its agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

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

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Agreement Number: 90212

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8426

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

Agreement Number: 90212

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

Agreement Number: 90212

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number: 90212

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XIX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

DATED this _____ day of _____, 2018

CITY OF VANCOUVER, a municipal corporation

BY: _____
Eric Holmes, City Manager

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

PBS ENGINEERING AND ENVIRONMENTAL, INC.,

Contractor

BY: _____
Title _____

Approved as to form:

E. Bronson Potter, City Attorney

Exhibit A

Scope of Work

Project No. N/A

On-call professional engineering services and other related professional services for the City of Vancouver Transportation Division per Request for Qualifications #14-18 (RFQu) and the respondents response to said RFQu on file in City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

Agreement Number: 90212

TBD

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

ORACLE

B. Electronic Messaging System

OUTLOOK

C. File Transfers Format

TBD

Exhibit D
Prime Consultant Cost Computations

Per the attached fee schedule and by reference hereto made a part of this agreement

Agreement Number: 90212



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

May 7, 2018

PBS Engineering & Environmental Inc.
4412 SW Corbett Avenue
Portland, OR 97239

Subject: Acceptance FYE 2017 ICR – Risk Assessment Review

Dear Mr. Bart Phillips:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2017 ICR of 171.62%. These rates are applicable to Washington Local Agency Contracts only. These rates may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
May 9 2018 7:16 AM

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

2018
City of Vancouver
PBS Engineering And Environmental
171.62% OH

<u>Classification</u>	<u>Rate</u>
1000: Principal Engineer	215.00
1001: Engineer VIII	185.00
1002: Engineer VII	180.00
1003: Engineer VI	160.00
1004: Engineer V	145.00
1010: Engineer IV	135.00
1011: Engineer III	120.00
1012: Engineer II	100.00
1013: Engineer I	95.00
1020: Design Technician IV	110.00
1021: Design Technician III	100.00
1031: Engineering Geologist I	110.00
1040: Landscape/Planning V	165.00
1041: Landscape/Planning IV	125.00
1066: Construction II	95.00
1067: Construction I	85.00
1080: Survey VI (PLS Principal)	175.00
1082: Survey IV (PLS)	145.00
1084: Survey II (Technician)	84.00
1085: Survey I (Assistant)	71.00
1095: Unmanned Aircraft Sys. Op.	90.00
2000: Principal Geologist/Manager	190.00
2011: Sr. Hydrogeologist II	145.00
2020: Sr. Geologist I	140.00
2029: Project Geologist/Scientist/Planner II	150.00
2050: Staff Geologist/Scientist/Planner	70.00
3000:Principal-Industrial Hygiene	190.00
3001: Certified Ind. Hygienist II	135.00
3002: Sr. Industrial Hygienist I	120.00
3002: Sr. Industrial Hygienist II	130.00
3010:Sr. Proj Manager-Ind Hygiene	105.00
3011: Certified Ind. Hygienist I	95.00
3012: Trainer / Safety Specialist	85.00
3020: Proj. Manager-Ind Hygiene	95.00
3030: Ind Hygienist/AHERA Insp	90.00
3031: Industrial Hygienist/Monitor	75.00
4000: Principal Scientist/Planner	190.00
4010: Senior Scientist/Planner	140.00
4011: Sr Environ/Regulatory Spec.	130.00
4013:Sr Environ Compliance Monitor	120.00
4020: Proj Envir/Regulatory Spec	115.00
4021:Proj Environ Compl Monitor	105.00
4033: Field Scientist/Planner	60.00
5000: Public Involvement	100.00
5002: IT / Database Management	110.00
5003: CAD Manager	117.00
5004: Project Administrator II	98.00
5005: CAD / Micro Station Tech I	75.00
5006: Graphic Artist	90.00
5007: Writer / Editor	90.00
5008: Project Administrator I	73.00
5009: Administration	65.00

Exhibit E

Sub-consultant Cost Computations

Per the attached fee schedules and by reference hereto made a part of this agreement.

Agreement Number: 90212

City of Vancouver
Transportation On - Call Rate Schedule
As of June 2018

Classification	Maximum Hourly Rate	Overhead @ 211.41%	Profit @ 30%	Hourly Billing Rate*
Senior Principal Engineer/Planner	\$89.12	\$188.41	\$26.74	\$304.26
Principal Engineer/Planner	\$70.27	\$148.56	\$21.08	\$239.91
Associate Engineer/Planner	\$62.63	\$132.41	\$18.79	\$213.83
Senior Engineer/Planner	\$50.95	\$107.71	\$15.29	\$173.95
Engineer/Planner	\$45.24	\$95.64	\$13.57	\$154.45
Transportation Analyst	\$34.80	\$73.57	\$10.44	\$118.81
Technician I	\$31.17	\$65.90	\$9.35	\$106.42
Technician II	\$34.03	\$71.94	\$10.21	\$116.18
Senior Technician	\$39.77	\$84.08	\$11.93	\$135.78
Associate Technician	\$50.74	\$107.27	\$15.22	\$173.23
Office Support	\$27.43	\$57.99	\$8.23	\$93.65

** Maximum classification rates by category are shown above . Actual wage rates will be invoiced, overhead and profit will be locked for the duration of the contract.*



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

December 15, 2017

Kittelson & Associates, Inc.
610 SW Alder Street, Suite 700
Portland, OR 97205

Subject: Acceptance FYE 2016 ICR – CPA Report

Dear Ms. Janette Lennon:

We have accepted your firms FYE 2016 Indirect Cost Rate (ICR) of 211.41% based on the "Independent CPA Report," prepared by D.L. Purvine, CPA. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number: 90212

Exhibit G

Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Vancouver
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters -
Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: 90212

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
PBS Engineering and Environmental, Inc.

whose address is

415 West 6th Street, Suite 601, Vancouver, Washington 98660

and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Vancouver and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

PBS Engineering and Environmental, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90212

Exhibit G-1 (b)
Certification of Agency Official

I hereby certify I am the Agency Official of the Local Agency of the City of Vancouver, Washington, and the consulting firm or its representative has not been required, directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Eric Holmes, City Manager

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

PBS Engineering and Environmental, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90212

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

PBS Engineering and Environmental, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90212

Exhibit G-4
Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4 submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of On-call engineering services are accurate, complete, and current as of July 16th, 2018. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm: PBS Engineering and Environmental, Inc.

Signature: _____

Print Name: _____

Title: _____

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

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Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number: 90212

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

E-VERIFY

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon City request. Failure by Contractor to comply with this subsection shall be considered a material breach.

Initials:

Consultant _____

City _____

Accessibility for the Disabled

Any consulting services, whatsoever, provided for under the terms of this agreement shall comply with all local, State and Federal statutes applicable to the accessibility of the disabled, including but not limited to, the Architectural Barriers Act (ABA), Uniform Federal Accessibility Standards (UFAS), and Americans with Disabilities Act (ADA).

Initials:

Consultant _____

City _____

Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: 90213

Does this Require DES filing? ☐ Yes ☒ No

Firm/Organization Legal Name (do not use dba's): Wallis Engineering, PLLC	
Address 215 West 4th St., #200, Vancouver, WA 98660	Federal Aid Number
UBI Number	Federal TIN or SSN Number 91-1944973
Execution Date July 16th, 2018	Completion Date July 15th, 2022
1099 Form Required ☒ Yes ☐ No	Federal Participation ☒ Yes ☐ No
Project Title On-Call Engineering Services	
Description of Work Miscellaneous engineering and other related professional services - to be determined (TBD)	
☐ Yes (TBD) % ☐ No DBE Participation ☐ Yes (TBD) % ☐ No MBE Participation ☐ Yes (TBD) % ☐ No WBE Participation ☐ Yes (TBD) % ☐ No SBE Participation	Maximum Amount Payable: \$500,000.00

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation/SBE Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Agreement Number: 90213

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Vancouver hereinafter called the "AGENCY," and the "Firm/Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26 shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absents of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8433

If to CONSULTANT:

Name: David Brokaw
Agency: Wallis ENgineering, PLLC
Address: 215 West 4th Street, Suite 200
City: Vancouver State: WA Zip: 98660
Email: david.brokaw@walliseng.net
Phone: 360-695-7041
Facsimile: 360-694-1043

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

Agreement Number: 90213

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

- B. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT'S Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

Agreement Number: 90213

VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each Task Order unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE), the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

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to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and/or the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or the AGENCY, its agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

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

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Scott Cramer
Agency: City of Vancouver
Address: P.O. Box 1995
City: Vancouver State: WA Zip: 98668
Email: scott.cramer@cityofvancouver.us
Phone: 360-487-8426
Facsimile: 360-487-8426

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

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XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the AGENCY

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

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XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

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The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XIX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe

Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

DATED this _____ day of _____, 2018

CITY OF VANCOUVER, a municipal corporation

BY: _____
Eric Holmes, City Manager

Attest:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

WALLIS ENGINEERING, PLLC, Contractor

BY: _____

Title _____

Approved as to form:

E. Bronson Potter, City Attorney

Exhibit A

Scope of Work

Project No. N/A

On-call professional engineering services and other related professional services for the City of Vancouver Transportation Division per Request for Qualifications #14-18 (RFQu) and the respondents response to said RFQu on file in City of Vancouver Procurement Services and by reference hereto made a part of this agreement.

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Exhibit B
DBE Participation/SBE Plan

TBD

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Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

TBD

B. Roadway Design Files

TBD

C. Computer Aided Drafting Files

TBD

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D. Specify the Agency's Right to Review Product with the Consultant

TBD

E. Specify the Electronic Deliverables to Be Provided to the Agency

TBD

F. Specify What Agency Furnished Services and Information Is to Be Provided

TBD

II. Any Other Electronic Files to Be Provided

TBD

III. Methods to Electronically Exchange Data

TBD

A. Agency Software Suite

ORACLE

B. Electronic Messaging System

OUTLOOK

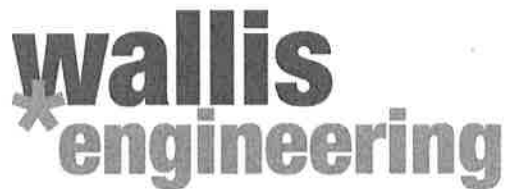
C. File Transfers Format

TBD

Exhibit D
Prime Consultant Cost Computations

Per the attached fee schedule and by reference hereto made a part of this agreement

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2018-19 MAXIMUM BILLING RATES

These rates are effective through June 30, 2019

Job Classifications	Maximum Direct Salary	Overhead @ 157.68%	Profit @ 30% (of Hourly Rate)	Maximum Billing Rate
SE - Senior Engineer	\$59.43	\$93.71	\$17.83	\$170.97
E1 - Engineer 1	\$54.47	\$85.89	\$16.34	\$156.70
E2 - Engineer 2	\$51.25	\$80.81	\$15.38	\$147.44
E3 - Engineer 3	\$45.49	\$71.73	\$13.65	\$130.87
E4 - Engineer 4	\$39.12	\$61.68	\$11.74	\$112.54
E5 - Engineer 5	\$37.14	\$58.56	\$11.14	\$106.84
E6 - Engineer 6	\$27.73	\$43.72	\$8.32	\$79.77
SD - Senior Designer	\$51.50	\$81.21	\$15.45	\$148.16
I - Inspector	\$51.50	\$81.21	\$15.45	\$148.16
T1 - Technician 1	\$32.77	\$51.67	\$9.83	\$94.27
C1 - Clerical 1	\$31.52	\$49.70	\$9.46	\$90.68
TW - Technical Writer	\$31.52	\$49.70	\$9.46	\$90.68

- These hourly rates include in-house office expenses, photocopying, and other incidental items. Mileage will be reimbursed at the current standard IRS rate. Outside expenses will be billed at cost plus 10%.



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

June 11, 2018

Wallis Engineering, PLLC
215 W 4th Street, Suite 200
Vancouver, WA 98660

Subject: Acceptance FYE 2017 ICR – Risk Assessment Review

Dear Gillian Wallis:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2017 ICR of 157.68%. These rates are applicable to Washington Local Agency Contracts only. These rates may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
Jun 12 2018 2:52 PM
cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:rck

Certification of Final Indirect Costs

Firm Name: Wallis Engineering, PLLC

Indirect Cost Rate Proposal: 157.68

Date of Proposal Preparation (mm/dd/yyyy): 06/03/2018

Fiscal Period Covered (mm/dd/yyyy to mm/dd/yyyy): 01/01/2017 to 12/31/2017

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1.) All costs included in this proposal to establish final indirect cost rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of title 48, Code of Federal Regulations (CFR), part 31.

2.) This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

Signature: 

Name of Certifying Official* (Print): Jane Vail

Title: Member

Date of Certification (mm/dd/yyyy): 06/03/2018

*The "Certifying Official" must be an individual executive or financial officer of the firm at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate for use under Agency contracts.

Ref. FHWA Directive 4470.1A available on line at:
<http://www.fhwa.dot.gov/legregs/directives/orders/44701a.htm>

Exhibit E ***Sub-consultant Cost Computations***

Per the attached fee schedules and by reference hereto made a part of this agreement.

Agreement Number: 90213

CITY OF VANCOUVER, WALLIS ENG
RATES FOR MINISTER AND GLAESER SURVEYING, INC
06/14/18

<u>JOB CLASSIFICATION</u>	<u>DIRECT LABOR RATES</u>	<u>OVER HEAD 163.62%</u>	<u>FIXED FEE 20.6%</u>	<u>BILLING RATE</u>
PRINCIPAL SURVEYOR	\$38.47	\$62.94	\$7.92	\$109.34
PROFESSIONAL LICENSED SURVEYORS	\$37.00	\$60.54	\$7.62	\$105.16
SURVEY TECHNICIAN	\$30.00	\$49.09	\$6.18	\$85.27
CADD TECHNICIAN	\$25.00	\$40.91	\$5.15	\$71.06
ONE PERSON FIELD CREW	\$28.00	\$45.81	\$5.77	\$79.58
TWO PERSON FIELD CREW	\$53.00	\$86.72	\$10.92	\$150.64
THREE PERSON FIELD CREW	\$77.00	\$125.99	\$15.86	\$218.85
ADMINISTRATION	\$16.00	\$26.18	\$3.30	\$45.48



**Washington State
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Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

May 3, 2018

Minister & Glaeser Surveying, Inc.
2200 E Evergreen Blvd
Vancouver, WA 98661

Subject: Acceptance FYE 2017 ICR – Risk Assessment Review

Dear Ms. Sara Eltinge:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2017 ICR of 163.62%. These rates are applicable to Washington Local Agency Contracts only. These rates may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
May 9 2018 7:21 AM

COSIGN

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

ACTUALS NOT TO EXCEED TABLE (ANTE)

Agreement No. Y-11806

Geotechnical Resources, Inc. 1101 Broadway, Suite 130 Vancouver, WA 98660					
Job Classifications	Direct Labor Rates	Overhead 187.83%	Fixed Fee 30%	All Inclusive Hourly	
	NTE	NTE	NTE	Billing Rate	NTE
Principal	\$ 69.33	\$ 130.22	\$ 20.80	\$	220.35
Associate	\$ 62.50	\$ 117.39	\$ 18.75	\$	198.64
Senior Engineer / Geologist	\$ 46.05	\$ 86.50	\$ 13.82	\$	146.36
Project Engineer / Geologist	\$ 40.87	\$ 76.77	\$ 12.26	\$	129.90
Staff Engineer / Geologist	\$ 36.06	\$ 67.73	\$ 10.82	\$	114.61
Engineering Assistant	\$ 25.00	\$ 46.96	\$ 7.50	\$	79.46
CADD / Drafter	\$ 31.08	\$ 58.38	\$ 9.32	\$	98.78
Technical Editor	\$ 36.60	\$ 68.75	\$ 10.98	\$	116.33
Contract Admin / Accountant	\$ 50.31	\$ 94.50	\$ 15.09	\$	159.90
Production / Clerical	\$ 30.01	\$ 56.37	\$ 9.00	\$	95.38

WSDOT Approved OH Rate as of 12/14/16
 Max Labor rates as of 11/1/15



Jonson, Erik

cosign

Y-11806 Exhibit D



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

February 16, 2017

Geotechnical Resources, Inc.
1101 Broadway, Suite 130
Vancouver, WA 98660

Subject: Acceptance Prime Annual ANTE Rate Table

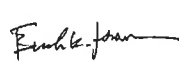
Dear Ms. Tina Olson:

Washington State Department of Transportation (WSDOT) has reviewed and accepted your proposed Annual ANTE rate table for Agreement Number Y-11806. This acceptance is in accordance with the terms of your agreement with WSDOT.

This Annual ANTE rate table may be subject to additional review if considered necessary by WSDOT.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards,

 Jonson, Erik
cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:rck

Enclosure: Prime Accepted Annual ANTE Rate Table

Cc: Bill Hegge



**Washington State
Department of Transportation**

Transportation Building
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P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

December 14, 2016

Geotechnical Resources, Inc.
9725 SW Beaverton Hillsdale Hwy
Beaverton, OR 97005-3364

Subject: Acceptance FYE 2015 ICR – Audit Office Review

Dear Ms. Tina Olson:

Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2015 Indirect Cost Rate (ICR) of 187.83%. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik
Dec 14 2016 11:06 AM

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Consultant Fee Determination - Summary Sheet

DKS

Standard DKS Billing Grades	Maximum Direct Salary	Overhead	Fixed Fee	Maximum Billing Rate
Tech Level A	\$ 9.67	175.54%	30.0%	\$ 29.55
Tech Level B	\$ 9.82	175.54%	30.0%	\$ 30.00
Tech Level C	\$ 11.46	175.54%	30.0%	\$ 35.00
Tech Level D/Grade 1	\$ 13.09	175.54%	30.0%	\$ 40.00
Tech Level E/Grade 2	\$ 14.73	175.54%	30.0%	\$ 45.00
Tech Level F/Grade 3	\$ 16.36	175.54%	30.0%	\$ 50.00
Tech Level G/Grade 4	\$ 18.00	175.54%	30.0%	\$ 55.00
Tech Level H/Grade 5	\$ 19.64	175.54%	30.0%	\$ 60.00
Tech Level I/Grade 6	\$ 21.27	175.54%	30.0%	\$ 65.00
Tech Level J/Grade 7	\$ 22.91	175.54%	30.0%	\$ 70.00
Tech Level K/Grade 8	\$ 24.55	175.54%	30.0%	\$ 75.00
Tech Level L/Grade 9	\$ 26.18	175.54%	30.0%	\$ 80.00
Tech Level M/Grade 10	\$ 27.82	175.54%	30.0%	\$ 85.00
Tech Level N/Grade 11	\$ 29.46	175.54%	30.0%	\$ 90.00
Tech Level O/Grade 12	\$ 31.09	175.54%	30.0%	\$ 95.00
Tech Level P/Grade 13	\$ 32.73	175.54%	30.0%	\$ 100.00
Tech Level Q/Grade 14	\$ 34.37	175.54%	30.0%	\$ 105.00
Tech Level R/Grade 15	\$ 36.00	175.54%	30.0%	\$ 110.00
Tech Level S/Grade 16	\$ 37.64	175.54%	30.0%	\$ 115.00
Tech Level T/Grade 17	\$ 39.27	175.54%	30.0%	\$ 120.00
Tech Level U/Grade 18	\$ 40.91	175.54%	30.0%	\$ 125.00
Tech Level V/Grade 19	\$ 42.55	175.54%	30.0%	\$ 130.00
Tech Level W/Grade 20	\$ 44.18	175.54%	30.0%	\$ 135.00
Tech Level X/Grade 21	\$ 45.82	175.54%	30.0%	\$ 140.00
Tech Level Y/Grade 22	\$ 47.46	175.54%	30.0%	\$ 145.00
Tech Level Z/Grade 23	\$ 49.09	175.54%	30.0%	\$ 150.00
Grade 24	\$ 50.73	175.54%	30.0%	\$ 155.00
Grade 25	\$ 52.37	175.54%	30.0%	\$ 160.00
Grade 26	\$ 54.00	175.54%	30.0%	\$ 165.00
Grade 27	\$ 55.64	175.54%	30.0%	\$ 170.00
Grade 28	\$ 57.28	175.54%	30.0%	\$ 175.00
Grade 29	\$ 58.91	175.54%	30.0%	\$ 180.00
Grade 30	\$ 60.55	175.54%	30.0%	\$ 185.00
Grade 31	\$ 62.18	175.54%	30.0%	\$ 190.00
Grade 32	\$ 63.82	175.54%	30.0%	\$ 195.00
Grade 33	\$ 65.46	175.54%	30.0%	\$ 200.00
Grade 34	\$ 67.09	175.54%	30.0%	\$ 205.00
Grade 35	\$ 68.73	175.54%	30.0%	\$ 210.00
Grade 36	\$ 70.37	175.54%	30.0%	\$ 215.00
Grade 37	\$ 72.00	175.54%	30.0%	\$ 220.00
Grade 38	\$ 73.64	175.54%	30.0%	\$ 225.00
Grade 39	\$ 75.28	175.54%	30.0%	\$ 230.00
Grade 40	\$ 76.91	175.54%	30.0%	\$ 235.00
Grade 41	\$ 78.55	175.54%	30.0%	\$ 240.00
Grade 42	\$ 80.19	175.54%	30.0%	\$ 245.00
Grade 43	\$ 81.82	175.54%	30.0%	\$ 250.00
Grade 44	\$ 83.46	175.54%	30.0%	\$ 255.00
Grade 45	\$ 85.10	175.54%	30.0%	\$ 260.00
Grade 46	\$ 86.73	175.54%	30.0%	\$ 265.00
Grade 47	\$ 88.37	175.54%	30.0%	\$ 270.00
Grade 48	\$ 90.00	175.54%	30.0%	\$ 275.00
Grade 49	\$ 91.64	175.54%	30.0%	\$ 280.00
Grade 50	\$ 93.28	175.54%	30.0%	\$ 285.00
Grade 51	\$ 94.92	175.54%	30.0%	\$ 290.00
Grade 52	\$ 96.56	175.54%	30.0%	\$ 295.00
Grade 53	\$ 98.20	175.54%	30.0%	\$ 300.00
Grade 54	\$ 99.84	175.54%	30.0%	\$ 305.00
Grade 55	\$ 101.48	175.54%	30.0%	\$ 310.00

Project expenses will be billed at cost for service and handling. Project expenses include project-related costs such as reproduction through outside services, transportation, subsistence, delivery/postage and subcontractor services.

Reimbursable costs are billed as follows:

8-1/2 x 11 B/W, at cost, up to \$0.10 per page
 11 x 17 B/W bond, at cost, up to \$0.50 per page
 24 x 36 B/W bond, at cost, up to \$1.00 per page
 11 x 17 B/W mylar, at cost, up to \$3.50 per page
 24 x 36 B/W mylar, at cost, up to \$7.00 per page
 8-1/2 x 11 color, at cost, up to \$0.90 per page
 11 x 17 color, at cost, up to \$1.75 per page



**Washington State
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310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

April 18, 2017

DKS Associates, Inc.
719 Second Avenue, Suite 1250
Seattle, WA 98104

Subject: Acceptance FYE 2016 ICR – Cognizant Review

Dear Ms. Betsy McCarthy:

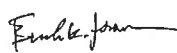
We have accepted your firms FYE 2016 Indirect Cost Rate (ICR) of 175.54% based on the "Cognizant Review" from The Oregon Department of Transportation. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

 Jonson, Erik
cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Alta Planning + Design, Inc
2018-19 Maximum Bill Rate

Job Classifications	Maximum Direct Salary	Overhead @ 189.84	Profit @ 30% of hourly rate	Maximum Billing Rate
Labor Category 1a : Sr. Principal	118.13	224.26	\$ 35.44	\$ 377.83
Labor Category 1b : Principal	110.24	209.28	\$ 33.07	\$ 352.59
Labor Category 1c : Principal	89.51	169.93	\$ 26.85	\$ 286.29
Labor Category 2 : Principal	78.04	148.15	\$ 23.41	\$ 249.60
Labor Category 3 : Sr. Associate, Principal	71.03	134.84	\$ 21.31	\$ 227.18
Labor Category 4 : Sr. Associate, Principal	56.06	106.43	\$ 16.82	\$ 179.30
Labor Category 5 : Sr. Associate, Principal	54.55	103.55	\$ 16.36	\$ 174.46
Labor Category 6 : Sr. Associate, Principal	53.03	100.67	\$ 15.91	\$ 169.61
Labor Category 7 : Sr. Associate, Principal	51.52	97.80	\$ 15.45	\$ 164.77
Labor Category 8 : Assoc., Sr. Assoc.	49.39	93.77	\$ 14.82	\$ 157.98
Labor Category 9 : Assoc., Sr. Assoc.	46.97	89.17	\$ 14.09	\$ 150.23
Labor Category 10 : Assoc., Sr. Assoc.	45.45	86.29	\$ 13.64	\$ 145.38
Labor Category 11 : Senior, Associate	43.03	81.69	\$ 12.91	\$ 137.63
Labor Category 12 : Senior, Associate	41.52	78.81	\$ 12.45	\$ 132.78
Labor Category 13 : Senior, Associate	39.09	74.21	\$ 11.73	\$ 125.03
Labor Category 14 : Level 1, Senior	34.85	66.16	\$ 10.45	\$ 111.46
Labor Category 15 : Level 1, Senior	32.12	60.98	\$ 9.64	\$ 102.74
Labor Category 16 : Level 1, Level 2	29.70	56.38	\$ 8.91	\$ 94.98
Labor Category 17 : Level 1, Level 2	26.67	50.62	\$ 8.00	\$ 85.29
Labor Category 18: Admin ONLY	35.00	66.44	\$ 10.50	\$ 111.94
Labor Category 19: Interns ONLY	20.00	37.97	\$ 6.00	\$ 63.97



**Washington State
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310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

July 20, 2017

Alta Planning + Design
711 SE Grand Avenue
Portland, OR 97214

Subject: Acceptance FYE 2016 ICR – Risk Assessment Review

Dear Ms. Keely Jamison:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2016 ICR of 189.84%. This rate is applicable to Washington Local Agency Contracts only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

Jonson, Erik

cosign

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number: 90213

Exhibit G

Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Vancouver
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number: 90213

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Wallis Engineering, PLLC
whose address is
215 West 4th Street, Suite 200 Vancouver, Washington 98660
and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Vancouver
and the Federal Highway Administration, U.S. Department of Transportation in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Wallis Engineering, PLLC

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90213

Exhibit G-1 (b)
Certification of Agency Official

I hereby certify I am the Agency Official of the Local Agency of the City of Vancouver, Washington, and the consulting firm or its representative has not been required, directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Eric Holmes, City Manager

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Wallis Engineering, PLLC

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90213

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

Wallis Engineering, PLLC

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number: 90212

Exhibit G-4
Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4 submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of On-call engineering services are accurate, complete, and current as of July 16th, 2018. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm: Wallis Engineering, PLLC

Signature: _____

Print Name: _____

Title: _____

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number: 90213

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number: 90213

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

E-VERIFY

Contractor shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. Contractor shall ensure all Contractor employees and any sub-contractor(s) assigned to perform work under this Agreement are eligible to work in the United States. Contractor shall provide verification of compliance upon City request. Failure by Contractor to comply with this subsection shall be considered a material breach.

Initials:

Consultant _____

City _____

Accessibility for the Disabled

Any consulting services, whatsoever, provided for under the terms of this agreement shall comply with all local, State and Federal statutes applicable to the accessibility of the disabled, including but not limited to, the Architectural Barriers Act (ABA), Uniform Federal Accessibility Standards (UFAS), and Americans with Disabilities Act (ADA).

Initials:

Consultant _____

City _____



Staff Report 100-18

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 7/2/2018

SUBJECT REACH Isabella Court Phase 2 Affordable Housing Fund Contract

Key Points

- REACH has been awarded \$737,550 in Affordable Housing Funds for construction of Isabella Court Phase 2.
- The project consists of a 49-unit affordable housing development serving low income and formerly homeless households.

Strategic Plan Alignment

Objective 3.2: Improve services available to underserved or vulnerable residents.

Present Situation

The City of Vancouver allocated \$4.4 million from the 2017 Affordable Housing Fund (AHF) for construction and preservation of housing serving households earning up to 50% of area median income (AMI). The review committee and City staff have recommended an award of \$737,550 to REACH Community Development for construction of Isabella Court Phase 2. The project consists of 49 units of rental housing located at 3020 NE 62nd Avenue in Vancouver. The project will include 34 one-bedroom and 15 two-bedroom apartments as well as a community room, day rooms, social services office, indoor children's play area, playground, courtyard, community gardens and parking. Thirty-seven units will be targeted to formerly homeless households with incomes at or below 30% AMI and the remaining 12 units will be restricted to households at or below 50% AMI. Affordable Housing Funds will be used for construction costs.

Advantage(s)

The project will create 49 units of rental housing serving low-income and formerly homeless households, including 17 units that will carry an Affordable Housing Fund covenant restricting their use to households earning up to 50% AMI throughout the affordability period (through December 2059).

Disadvantage(s)

None of note.

Budget Impact

None. There is sufficient appropriation available in the 2018 operating baseline in the Affordable Housing Fund.

Prior Council Review

- September 25, 2017, workshop, reviewed proposed 2017 Allocation Plan.
- October 2, 2017, workshop, adopted 2017 Allocation Plan.

Action Requested

Authorize the City Manager or designee to sign a contract with REACH Community Development, Inc. providing Affordable Housing Funds for construction of Isabella Court Phase 2.

Danell Norby, Community Development Coordinator, 487-7953

ATTACHMENTS:

- ▢ REACH Isabella Court Phase 2 Contract
- ▢ REACH Isabella Court Phase 2 Budget
- ▢ REACH Isabella Court Phase 2 Deed
- ▢ REACH Isabella Court Phase 2 Note
- ▢ REACH Isabella Court Phase 2 Covenant
- ▢ REACH Isabella Court Phase 2 Assignment Agreement



AGREEMENT

BETWEEN

CITY OF VANCOUVER

Affordable Housing Fund

PO Box 1995 • Vancouver • Washington • 98668-1995

(360) 487-7952 • www.cityofvancouver.us/cdbg

AND

REACH COMMUNITY DEVELOPMENT, INC.

4150 SW Moody Ave • Portland • Oregon • 97239

Project funded:	Isabella Court Phase II
Funding Source:	Vancouver Affordable Housing Fund
Agreement Period:	July 2, 2018 through December 31, 2059
Agreement Number:	2017-AHF-221106
Agreement Amount:	\$737,550
Property Address:	3020 NE 62 nd Ave, Vancouver, WA 98661
Affordability Period:	March 1, 2019 through December 31, 2059
Agency Contact:	Ben Sturtz (503) 501-5727 bsturtz@reachcdc.org
City Contact:	Peggy Sheehan (360) 487-7952 peggy.sheehan@cityofvancouver.us

This agreement consists of the following:

- Signature page
- Statement of Work
- Rental Property Requirements
- Line Item Budget
- Timeline
- Authorization Signature Card
- General Terms and Conditions
- Exhibit A: Request for Advance Form
- INCORPORATED BY REFERENCE: Deed, Note, Covenant, and Assignment Agreement

IN WITNESS WHEREOF, the parties agree to the terms and conditions of this Agreement and have caused this Agreement to be executed by their respective officers and agents thereunto duly authorized by signing below:

CITY OF VANCOUVER:

REACH COMMUNITY DEVELOPMENT,
INC.:

Eric Holmes, City Manager

Dan Valliere, Executive Director

Date:

Date:

ATTEST:

Natasha Ramras, City Clerk or
Carrie Lewellen, Deputy City Clerk

Peggy Sheehan, CDBG/HOME Program
Manager

APPROVED AS TO FORM:

Bronson Potter, City Attorney

PROJECT DESCRIPTION

REACH COMMUNITY DEVELOPMENT, INC. (AGENCY) is operating as a subrecipient for the City of Vancouver (CITY) to complete a project using Affordable Housing Funds. As such, AGENCY must comply with the terms and conditions in this Agreement including, but not limited to, the attached Budget, Timeline, and documents incorporated by reference, including but not limited to, the Deed, Note, Covenant, and Assignment Agreement.

The intent of this Agreement is to provide a loan in the amount not to exceed \$737,550 in Affordable Housing Funds to the AGENCY for the Isabella Court Phase II project. The AGENCY will assign the obligations under this contract to REACH 62nd Avenue LLC, a Washington limited liability company. The project will include 34 one-bedroom and 15 two-bedroom apartments as well as a community room, day rooms, social services office, indoor children's play area, playground, courtyard, community gardens and parking. All units will serve households earning up to not more than 50% AMI at initial occupancy, with 37 units targeted to homeless or formerly homeless households with incomes at or below 30% AMI at time of initial occupancy.

Affordable Housing Funds will be used for construction and other development costs. **17 Affordable Housing Fund-supported units will be restricted to households earning up to 50% AMI throughout the affordability period.**

PROJECT BUDGET

1. The CITY will provide the AGENCY with a loan in an amount not to exceed \$737,550 for purposes of completing the project described herein. The use of these funds shall be expressly limited to the activities described in this Agreement.
2. Any reduction in the total budget authority will be done after consultation with the AGENCY and will require a modification of this Agreement. Any funds unspent at the end of the Agreement period will be retained by the CITY for allocation to another Affordable Housing Fund project.

PAYMENT PROVISIONS

1. The majority of the CITY advances to the AGENCY will be on a cost reimbursement basis. However, there are times such as property purchase that the CITY will make advances to an escrow account. In most cases, the CITY will make advances to AGENCY *as soon as practicable* but not more than thirty (30) days after the AGENCY submits a Request for Advance. Request for Advance shall include the following:
 - a. A summary of expenses incurred in support of all costs, and accompanied by general ledger detail.
 - For direct costs, detail will include direct costs: vendor names, dates of service and amount;
 - For services that are also funded by a third party, the AGENCY shall provide a detailed cost itemization by cost center and funding source. Detail shall identify which service or work was funded by the CITY and which by other parties.
2. The AGENCY shall designate one or more representatives who will be legally authorized to sign the Request for Advance Form provided and any other forms that may be required. The names of the liaison persons and representatives will be specified on the Authorization Signature Card.
3. AGENCY shall provide supporting documentation to the CITY upon request for any Request for Advance, such as invoices and receipts.

TERM OF AGREEMENT

1. This Agreement is in effect for the period from July 2, 2018 through December 31, 2059, unless terminated as described under the **TERMINATION** section of the General Terms and Conditions.
2. Affordable Housing Funds shall be accounted separately from other funds received by the AGENCY.

LOAN TERMS

The City will loan Affordable Housing Funds to the Agency in an amount not to exceed \$737,550. The outstanding balance shall bear interest at the rate of 1% per annum compounding annually. The Agency shall make annual payments in the amount of \$20,435.78 on the 1st day of December starting December 1, 2020, and ending December 1, 2039. The remaining unpaid principal, if any, and accrued interest shall be due and payable on December 31, 2059. The loan shall be secured by a deed of trust encumbering the property.

In accordance with the terms of this Agreement and the Deed of Trust, if the Affordable Housing Fund units are not operated as required by this Agreement throughout the affordability period, then the loan becomes due immediately.

PUBLIC NOTIFICATION

The CITY will provide information about the project, including location, property owner, contract amount, and number of designated Affordable Housing Fund units, to the public through the City of Vancouver website.

DOCUMENTS INCORPORATED BY REFERENCE

Each of the documents listed below are by this reference incorporated into this Agreement as though fully set forth herein, including any amendments, modifications or supplements thereto:

1. AGENCY's proposal for 2017 Affordable Housing Funds.
2. Current version of Affordable Housing Fund income limits (50% of Area Median Income provided by HUD).
3. Deed, Note, Covenant and Assignment Agreement.

NOTICE TO PROCEED

Upon execution of this agreement, the CITY will furnish the AGENCY with a written notice to proceed. No work on the project shall occur prior to the Notice to Proceed without prior written approval from the CITY.

PROJECT COMPLETION

Project completion means that:

1. All necessary title transfer requirements and construction work have been performed;
2. The project complies with the requirements of this Agreement;
3. AGENCY has been advanced all costs; and
4. Affordable Housing Fund units are occupied by eligible tenants.

RENTAL PROPERTY REQUIREMENTS

AFFORDABILITY PERIOD

Isabella Court Phase II located at 3020 NE 62nd Ave, Vancouver, WA 98661 will carry the requirement that the Affordable Housing Fund-assisted units remain affordable throughout the affordability period to people who are at or below 50% (calculated annually) of the area median income (AMI) established by HUD.

The affordability period dates are March 1, 2019, through December 31, 2059. During the affordability period, all Affordable Housing Fund requirements must be met and the CITY will be required to monitor the assisted units annually for compliance.

The City of Vancouver will ensure the affordability period and requirements are met by recording deed and covenant restrictions. These documents include details on affordability requirements, loan terms, restrictions regarding foreclosure, deed in lieu of foreclosure, and transfer of ownership and are incorporated into this Agreement by reference.

UNIT DESIGNATION

The designated Affordable Housing Fund units will consist of 17 units including 16 one-bedroom and 1 two-bedroom units. All will be floating units meaning that units originally designated as Affordable Housing Fund-assisted units may change over time. **During the affordability period, the number of Affordable Housing Fund units in the project may never be less than seventeen (17) units.** The units must be comparable, in size, features, and number of bedrooms to those units originally identified as Affordable Housing Fund units.

AFFORDABLE RENTAL HOUSING QUALIFICATION

Affordable Housing Fund units in a rental housing project must only be occupied by households that are eligible low-income families at the time of initial occupancy and the tenant portion of rent may not exceed what is affordable to households at 50% AMI. Units must meet the following requirements to qualify as affordable housing:

1. **Rent Limitation and Utility Allowances:**
 - a. The City of Vancouver will issue the Affordable Housing Fund rent limits annually. The information is available at www.cityofvancouver.us/affordablehousingfund.
 - b. Only the utility allowance provided by the Housing Authority of the City of Vancouver shall be used.
2. **Rent Schedule Approval:** Prior to occupancy, the CITY shall review and approve rents proposed by the AGENCY. The tenant portion of rent must not exceed the maximum Affordable Housing Fund rent minus the monthly allowances for utilities and services.
3. **Nondiscrimination against rental assistance subsidy holders.** The AGENCY cannot refuse to lease Affordable Housing Fund-assisted units to a holder of a Section 8 or other comparable tenant assistance voucher.
4. **Tenant Income.**
 - a. All funds used for rental housing shall assist households who have an annual income that is 50% of the area median income (AMI) or less at the time of initial occupancy.
 - b. The City of Vancouver shall provide the HUD income limits annually. The most current HUD income limits can be found at www.cityofvancouver.us/cdbg.
 - c. The income of each tenant must be determined initially and annually in accordance with the City of Vancouver Affordable Housing Fund Policies and Procedures.
5. **Over-income tenants.** Tenant income must be monitored annually. If an over-income tenant is residing in a floating unit, the next available unit must be rented to an income eligible tenant.

REPORTING

Properties are required to report on Affordable Housing Fund units annually in December for the duration of the affordability period. Reports should be submitted to the City of Vancouver Community and Economic Development Department, Attention: Peggy Sheehan using the Excel reporting form provided by the CITY.

Required information:

- Address and name of project
- Total number of units
- For each Affordable Housing Fund unit:
 - Unit number
 - Number of bedrooms
 - Monthly rent payment
 - Utility allowance
 - Renter gross income
 - Household size

INSPECTIONS

Prior to initial occupancy of an Affordable Housing Fund-assisted unit, the CITY must perform onsite Housing Quality Standard inspections. During the period of affordability, the CITY must perform on-site inspections of Affordable Housing Fund units no less than every three years.

BUDGET

SEE ATTACHED

By signing below AGENCY acknowledges the review and approval of the budget listed above.

Name

Date

Title

TIMELINE

ACTIVITY	SCHEDULED DATE
Bid Process and Final Funding Commitments	May 2018
Obtain Construction Permits	June 2018
Close on Financing	July 2018
Construction	July 2018 – August 2019
Marketing and Outreach	March 2019 – December 2019
Occupancy	August 2019 – December 2019

AUTHORIZATION SIGNATURE CARD

Organization Name REACH COMMUNITY DEVELOPMENT, INC.

Address 4150 SW Moody Ave

City, State, Zip Vancouver, WA 98666

Telephone Number () Fax ()

SIGNATURE OF INDIVIDUALS AUTHORIZED TO SIGN FINANCIAL DOCUMENTS:

An authorized signature is required on financial documents. It is suggested that two or more persons be authorized so that one could sign in the absence of the other(s).

NAME

SIGNATURE

I certify that the signatures above are of the individuals authorized to execute financial documents for REACH COMMUNITY DEVELOPMENT, INC..

Date

Signature of Authorized Official

Title of Authorized Official

**Note: The authorized official may not approve their own signature above*

GENERAL TERMS AND CONDITIONS

1. Fair Housing.

Projects funded with the Affordable Housing Fund are subject to federal fair housing regulations. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.

2. Prevailing Wage.

If the applicant/recipient receives a loan that is incurring interest, is not forgivable and is required to be repaid in full, such a loan, in and of itself, is not expected to trigger prevailing wage requirements. However, if the applicant/recipient is receiving other public funds including a grant from the City and/or is a public entity, it may be required to pay prevailing wage on the project. A definitive determination regarding the applicability of prevailing wage laws can only be obtained from the Department of Labor and Industry.

3. Order of Precedence.

Where there is a conflict among or between any of these documents, the controlling documents shall be the first listed in the following sequence: Amendments to this Agreement; this Agreement; Purchase Orders; AGENCY's submitted proposal to project request and project request.

4. Relation of Parties.

The AGENCY, its subcontractors, agents and employees are independent AGENCYs performing professional services for CITY and are not employees of CITY. The AGENCY, its subcontractors, agents and employees, shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to CITY employees. The AGENCY, subcontractors, agents and employees shall not have the authority to bind CITY in any way except as may be specifically provided herein.

5. E-Verify.

AGENCY shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Agreement. AGENCY shall ensure all AGENCY employees and any sub-AGENCY(s) assigned to perform work under this Agreement are eligible to work in the United States. AGENCY shall provide verification of compliance upon City request. Failure by AGENCY to comply with this subsection shall be considered a material breach.

6. Delays and Extensions of Time.

If the AGENCY is delayed at any time from complying with the requirements covered by the Agreement, by any causes beyond AGENCY's control, the time for performance may be extended by such time as shall be mutually agreed upon by AGENCY and CITY and shall be incorporated in a written amendment to this Agreement. Any request for an extension of time shall be made in writing to CITY.

7. Compensation and Schedule of Payments.

CITY shall pay the AGENCY as indicated in the Payment Provisions of the Loan Agreement for work performed under the terms of this Agreement. \$737,550 is the maximum amount to be advanced under this Agreement and it shall not be exceeded without CITY's prior written authorization in the form of a negotiated and executed amendment. The AGENCY shall submit monthly invoices to CITY covering both professional fees and project expenses, if any, for fees and expenses from the previous month. Payments to AGENCY shall be net 30 days.

The CITY reserves the right to correct any invoices paid in error according to the rates set forth in this Agreement. CITY and AGENCY agree that any amount paid in error by CITY does not constitute a rate change in the amount of the contract. The CITY's contract/purchase order (PO) number given on the notice to proceed **must** be referenced on any invoice submitted for payment.

8. Ownership of Records and Documents.

Any and all work product prepared by the AGENCY in the course of performing this Contract shall immediately become the property of the CITY. In consideration of the compensation provided for by this Agreement, the AGENCY hereby further assigns all copyright interests in such work product to the CITY. A copy may be retained by the AGENCY. Previously owned intellectual property of AGENCY, and any know-how, methodologies or processes used by AGENCY to provide the services or project deliverables under this Contract shall remain property of AGENCY.

9. Termination.

The CITY, at its sole discretion, may terminate this contract for convenience at any time for any reason deemed appropriate. Termination is effective immediately upon notice of termination given by the CITY.

In the event this Agreement is terminated prior to the completion of work, AGENCY will only be paid for the hours completed at the time of termination of the Agreement.

10. Evaluation and Compliance with the Law.

The AGENCY shall have the authority to control and direct the performance and details of the work described herein. The AGENCY agrees to comply with all relevant, federal, state and municipal laws, rules and regulations.

11. City Business and Occupation License.

In most cases, AGENCYS will be required to get a business license when contracting with the City of Vancouver, unless allowable exemptions apply. Businesses/AGENCYs shall contact the State of Washington Business License Service (BLS) at: <http://bls.dor.wa.gov/file.aspx>, telephone 800-451-7985, or www.cityofvancouver.us/businesslicense, to determine whether a business license is required pursuant to VMC Ch. 5.04.

12. Liability and Hold Harmless.

AGENCY agrees to indemnify, defend, save and hold harmless the CITY, its officials, employees and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees and expenses incurred in connection therewith, of whatsoever kind or nature (including patent infringement or copyright claims) to the extent arising out of, or in connection with, or incident to, the negligent performance or willful misconduct pursuant to this Agreement. This indemnity and hold harmless shall include any claim made against the CITY by an employee of AGENCY or subcontractors or agent even if AGENCY is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the concurrent negligence of both the CITY and the AGENCY, such cost, fees and expenses shall be shared between the CITY and the AGENCY in proportion to their relative degrees of negligence. AGENCY specifically acknowledges the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that AGENCY provide the broadest scope of indemnity permitted by RCW 4.24.115. AGENCY is an independent AGENCY and responsible for the safety of its employees.

13. Insurance.

AGENCY shall obtain and keep in force during the entire term of this agreement, liability insurance against any and all claims for damages to person or property which may arise out of the performance of this

Contract whether such work shall be by the AGENCY, subcontractors or anyone directly or indirectly employed by either the AGENCY or subcontractor.

a. **Liability Insurance.** AGENCY shall maintain commercial General Liability insurance with a limit of not less than one million dollars (\$1,000,000) for each occurrence and not less than one million dollars (\$1,000,000) combined single limit automobile liability coverage. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operation and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Agreement. All liability insurance required herein shall be under a comprehensive or commercial general liability and business, policies.

b. **City Listed as an Additional Insured:** The City of Vancouver, its agents, representatives, officers, directors, officials, and employees must be named as an additional insured on the Commercial General Liability policy and shown on the certificate as an additional insured. A copy of the additional insured endorsement CG 20 10 11 85, or its equivalent CG 20 10 07 04 and CG 20 37 07 04 must be included with the certificate of insurance.

c. The commercial general liability policy must be endorsed to include "Washington Stop Gap" insurance. The limits and aggregates referenced must apply to the Stop Gap coverage as well. This must be indicated on the certificate.

d. **Worker's Compensation.** AGENCY shall carry workers' compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of AGENCY's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than one million dollars (\$1,000,000) for each accident, five hundred thousand dollars (\$500,000) for each disease for each employee, and one million dollars (\$1,000,000) for each disease policy limit.

e. **Umbrella Liability.** The AGENCY shall provide Umbrella Liability coverage at limits of not less than five million dollars (\$5,000,000) per occurrence and annual aggregate. This umbrella liability coverage shall apply, at a minimum, to both the Commercial General and Auto insurance policy coverage. This requirement may be satisfied instead through the AGENCY's primary Commercial General and Automobile Liability coverage, or any combination thereof.

f. **Professional Liability.** The AGENCY shall obtain and keep in force during the entire term of this Agreement, professional liability insurance (errors and omissions) against any and all claims for damages to person or property which may arise out of the performance of this Contract whether such work shall be by the AGENCY, sub-contractors or anyone directly or indirectly employed by either the AGENCY or a sub-contractors. The amount of coverage provided by such insurance shall be not less than five hundred thousand dollars (\$500,000) combined single limit.

g. **Fidelity/Employee Dishonesty Bond.** The AGENCY shall obtain and keep in force during the entire term of this Agreement, a Fidelity/Employee Dishonesty Bond against any and all claims which may arise out of the performance of this Contract whether such work shall be by the AGENCY, sub-contractors or anyone directly or indirectly employed by either the AGENCY or a sub-contractors. The amount of coverage provided by such insurance shall be not less than ten thousand dollars (\$10,000).

h. **Employment Security.** The AGENCY shall comply with all employment security laws of the state in which services are provided, and shall timely make all required payments in connection therewith.

i. The City of Vancouver shall be listed on the Certificate as the Certificate Holder.

j. Coverage Trigger: The insurance must be written on a “occurrence” basis. This must be indicated on the certificate. Claims made policies will be accepted for professional liability coverage only.

AGENCY shall provide evidence of all insurance required, at the City’s request, by submitting an insurance certificate to the CITY on a standard “ACORD” or comparable form.

14. Notices.

All notices which are given or required to be given pursuant to this Agreement shall be hand delivered or mailed postage paid as follows:

CITY:

Peggy Sheehan
City of Vancouver
415 W 6th Street
P O Box 1995
Vancouver WA 98668-1995

AGENCY:

Dan Valliere
REACH Community Development, Inc.
4150 SW Moody Ave
Portland, OR 97239

15. Amendments.

All changes to this Agreement, including changes to the statement of work and loan advances, must be made by written amendment and signed by all parties to this Agreement.

16. Scope of Agreement.

This Agreement incorporates all the agreements, covenants and understanding between the parties hereto and are merged into this written Agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement.

17. Ratification.

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

18. Governing Law/Venue.

This Agreement shall be deemed to have been executed and delivered within the State of Washington, and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Washington without regard to the principles of conflict of laws. The AGENCY shall have legal authority to enter into this agreement and be at least 18 years of age. Any action or suit brought in connection with this Agreement shall be brought in the Superior Court of Clark County, Washington.

19. Cooperative Purchasing:

The Washington State Inter-local Cooperation Act, Ch. 39.34 RCW, authorizes public agencies to cooperatively purchase goods and services if all parties agree. By having executed this Agreement, the AGENCY agrees that other public agencies may purchase goods and services under this solicitation or contract at their own cost and without the City of Vancouver incurring any financial or legal liability for such purchases. The City of Vancouver agrees to allow other public agencies to purchase goods and services under this solicitation or contract, provided that the City of Vancouver is not held financially or legally liable for purchases and that any public Agency purchasing under such solicitation or contract file a copy of this invitation and such contract in accordance with RCW 39.34.040.

20. Public Disclosure Compliance.

The parties acknowledge that the City is an “agency” within the meaning of the Washington Public Records Act, Ch 42.56 RCW, and that materials submitted by the Sub recipient to the CITY become public record. Such records may be subject to public disclosure, in whole or part and may be required to be released by the CITY in the event of a request for disclosure. In the event the CITY receives a public record request for any data or deliverable that is provided to the CITY and that is licensed from the Sub recipient, the CITY shall notify the Contractor of such request and withhold disclosure of such information for not less than five (5) business days, to permit the Sub recipient to seek judicial protection of such information, provided that the Contractor shall be responsible for attorney fees and costs in such action and shall save and hold harmless the CITY from any costs, attorney fees or penalty assessment under Ch.42.17 RCW for withholding or delaying public disclosure of such information.

21. Records.

AGENCY shall ensure that records generated in connection with the project, including but not limited to, financial transactions, are maintained and retrievable pursuant to the applicable CITY retention period. The CITY shall be granted access to any such records it deems necessary to satisfy oversight responsibilities and any other legal requirements, and shall be granted the right to copy any such records necessary to fulfill these obligations. The AGENCY shall provide access to these records upon request in a timely manner.

EXHIBIT A
City of Vancouver Affordable Housing Fund
REQUEST FOR ADVANCE

Date: _____ **Period Covered:** _____
 REACH Community
 Development -
Project Title: Isabella Court Phase II **Contact Person:** _____
Invoice #: _____ **Telephone:** _____
AHF Project #: _____ **Other Funding:** _____

Activity	AHF Budget	Expended This Period	Expended To Date	Balance
a) Construction, and other development costs	\$737,550			
b)				
c)				
d) Tax				
e) Other (Specify):				
TOTAL:	\$			

Reimbursement Amount Request \$ _____

☐ Check box when this is a final request.

CERTIFICATION: I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS REPORT IS CORRECT AND COMPLETE, AND THAT ALL EXPENDITURES ARE FOR THE PURPOSE SET FORTH IN THE GRANT AWARD DOCUMENTS. SUPPORTING DOCUMENTATION IS ATTACHED.

AUTHORIZATION:

 Authorized Signature for Project

 Title

 Date

AHF Program Only

AHF Project No: _____

Initials Drawn By: _____

Date Funds Drawn: _____

 Reviewed and Approved

 Date

Initials Approved By: _____

Form 6A: Development Budgets

Project Name: Isabella Court Phase II

Date of Budget 6/1/2018

	% Total Project Cost	Total Project Cost	Residential total	RESIDENTIAL						NON-RESIDENTIAL		
				Source:	Source:	Source:	Source:	Source:	Source:	non-residential total	Source:	Source:
				Housing Trust Funds	9% LHTC	Clark County HOME	City of Vancouver AHF	City of Vancouver HOME	NeighborWorks			
Acquisition Costs:												
Land	2%	\$ 293,851	\$ 293,851		\$ 293,851					\$ -		
Existing Structures	0%		\$ -							\$ -		
Liens	0%		\$ -							\$ -		
Closing, Title & Recording Costs	0%	\$ 31,588	\$ 31,588		\$ 31,588					\$ -		
Extension payment	0%		\$ -							\$ -		
Other: Holding Period Expenses	0%	\$ 900	\$ 900		\$ 900					\$ -		
SUBTOTAL	2%	\$ 326,339	\$ 326,339	\$ -	\$ 326,339	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction:												
Demolition	0%		\$ -							\$ -		
New Building	62%	\$ 8,656,732	\$ 8,656,732	\$ 968,190	\$ 6,569,088	\$ 497,000	\$ 204,626	\$ 212,450	\$ 205,378	\$ -		
Rehabilitation	0%		\$ -							\$ -		
Contractor Profit	1%	\$ 169,990	\$ 169,990	\$ 169,990						\$ -		
Contractor Overhead	2%	\$ 254,985	\$ 254,985	\$ 254,985						\$ -		
New Construction Contingency	5.0%	\$ 458,000	\$ 458,000	\$ 5,033	\$ 396,967			\$ 56,000		\$ -		
Rehab Contingency	0%		\$ -							\$ -		
Accessory Building	0%		\$ -							\$ -		
Site Work / Infrastructure	0%		\$ -							\$ -		
Off site Infrastructure	0%		\$ -							\$ -		
Environmental Abatement - Building	0%		\$ -							\$ -		
Environmental Abatement - Land	0%		\$ -							\$ -		
Sales Tax	5%	\$ 713,957	\$ 713,957	\$ 221,675	\$ 85,000	\$ 407,282				\$ -		
Bond Premium	1%	\$ 70,546	\$ 70,546	\$ 70,546						\$ -		
Equipment and Furnishings	0%	\$ 30,000	\$ 30,000	\$ 30,000						\$ -		
Other: Special Inspections	0%	\$ 12,000	\$ 12,000	\$ 12,000						\$ -		
SUBTOTAL	75%	\$ 10,366,210	\$ 10,366,210	\$ 1,702,419	\$ 7,081,055	\$ 904,282	\$ 204,626	\$ 268,450	\$ 205,378	\$ -	\$ -	\$ -
Soft Costs:												
Buyer's Appraisal	0%	\$ 12,000	\$ 12,000	\$ 12,000						\$ -		
Market Study	0%	\$ 14,000	\$ 14,000	\$ 14,000						\$ -		
Architect	3%	\$ 468,441	\$ 468,441		\$ 390,828				\$ 77,613	\$ -		
Engineering	0%		\$ -							\$ -		
Environmental Assessment	0%	\$ 45,000	\$ 45,000	\$ 45,000						\$ -		
Geotechnical Study	0%	\$ 35,000	\$ 35,000	\$ 35,000						\$ -		
Boundary & Topographic Survey	0%	\$ 22,000	\$ 22,000	\$ 22,000						\$ -		
Legal - Real Estate	0%	\$ 60,000	\$ 60,000	\$ 60,000						\$ -		
Developer Fee	7%	\$ 950,000	\$ 950,000	\$ 165,048	\$ 499,952		\$ 285,000			\$ -		
Project Management / Dev. Consultant Fees	1%	\$ 96,496	\$ 96,496	\$ 96,496						\$ -		
Other Consultants	0%	\$ 5,800	\$ 5,800	\$ 5,800						\$ -		
Soft Cost Contingency	0%	\$ 60,000	\$ 60,000	\$ 60,000						\$ -		
Other: Adjacent Property Easement Costs	0%	\$ 17,184	\$ 17,184	\$ 17,184						\$ -		
SUBTOTAL	13%	\$ 1,785,921	\$ 1,785,921	\$ 191,048	\$ 1,232,260	\$ -	\$ 285,000	\$ -	\$ 77,613	\$ -	\$ -	\$ -
Pre-Development / Bridge Financing												
Bridge Loan Fees	0%	\$ -	\$ -							\$ -		
Bridge Loan Interest	0%	\$ 12,250	\$ 12,250		\$ 12,250					\$ -		
SUBTOTAL	0%	\$ 12,250	\$ 12,250	\$ -	\$ 12,250	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Financing												
Construction Loan Fees	1%	\$ 71,250	\$ 71,250	\$ 71,250						\$ -		
Construction Loan Expenses	0%	\$ 14,750	\$ 14,750	\$ 14,750						\$ -		
Construction Loan Legal	0%	\$ 55,000	\$ 55,000	\$ 22,000	\$ 33,000					\$ -		
Construction Period Interest	2%	\$ 300,000	\$ 300,000		\$ 300,000					\$ -		
Lease-up Period Interest	1%	\$ 100,000	\$ 100,000		\$ 100,000					\$ -		
SUBTOTAL	4%	\$ 541,000	\$ 541,000	\$ 108,000	\$ 433,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Form 6A: Development Budgets

Project Name: Isabella Court Phase II

Date of Budget 6/1/2018

	% Total Project Cost	Total Project Cost	Residential total	RESIDENTIAL						NON-RESIDENTIAL		
				Source: Housing Trust Funds	Source: 9% LIHTC	Source: Clark County HOME	Source: City of Vancouver AHF	Source: City of Vancouver HOME	Source: NeighborWorks	non-residential total	Source:	Source:
Permanent Financing												
Permanent Loan Fees	0%	\$ -	\$ -							\$ -		
Permanent Loan Expenses	0%	\$ -	\$ -							\$ -		
Permanent Loan Legal	0%	\$ -	\$ -							\$ -		
LIHTC Fees	1%	\$ 100,103	\$ 100,103	\$ 89,016	\$ 11,087					\$ -		
LIHTC Legal	0%	\$ 50,000	\$ 50,000		\$ 50,000					\$ -		
LIHTC Owners Title Policy	0%	\$ 15,000	\$ 15,000		\$ 15,000					\$ -		
State HTF Fees	0%	\$ -	\$ -							\$ -		
Other:	0%	\$ -	\$ -							\$ -		
SUBTOTAL	1%	\$ 165,103	\$ 165,103	\$ 89,016	\$ 76,087	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Capitalized Reserves												
Operating Reserves	1%	\$ 203,810	\$ 203,810		\$ 203,810					\$ -		
Replacement Reserves	0%	\$ -	\$ -							\$ -		
Other:	0%	\$ -	\$ -							\$ -		
SUBTOTAL	1%	\$ 203,810	\$ 203,810	\$ -	\$ 203,810	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Development Costs												
Real Estate Tax	0%	\$ 25,800	\$ 25,800		\$ 25,800					\$ -		
Insurance	0%	\$ 41,019	\$ 41,019	\$ 18,512	\$ 22,507					\$ -		
Relocation	0%	\$ -	\$ -							\$ -		
Bidding Costs	0%	\$ -	\$ -							\$ -		
Permits, Fees & Hookups	1%	\$ 159,991	\$ 159,991	\$ 40,110	\$ 6,997		\$ 95,875		\$ 17,009	\$ -		
Impact/Mitigation Fees	1%	\$ 152,049	\$ 152,049				\$ 152,049			\$ -		
Development Period Utilities	0%	\$ -	\$ -							\$ -		
Nonprofit Donation	0%	\$ 25,000	\$ 25,000		\$ 25,000					\$ -		
Accounting/Audit	0%	\$ 20,000	\$ 20,000		\$ 20,000					\$ -		
Marketing/Leasing Expenses	0%	\$ 5,000	\$ 5,000		\$ 5,000					\$ -		
Carrying Costs at Rent up/Lease Up Reserve	1%	\$ 80,000	\$ 80,000		\$ 80,000					\$ -		
SUBTOTAL	4%	\$ 508,859	\$ 508,859	\$ 58,622	\$ 185,304	\$ -	\$ 247,924	\$ -	\$ 17,009	\$ -	\$ -	\$ -
Bond Related Costs of Issuance (4% Tax Credit/Bond Projects Only)												
Issuer Fees & Related Expenses	0%	\$ -	\$ -							\$ -		
Bond Counsel	0%	\$ -	\$ -							\$ -		
Trustee Fees & Expenses	0%	\$ -	\$ -							\$ -		
Underwriter Fees & Counsel	0%	\$ -	\$ -							\$ -		
Placement Agent Fees & Counsel	0%	\$ -	\$ -							\$ -		
Borrower's Counsel - Bond Related	0%	\$ -	\$ -							\$ -		
Rating Agency	0%	\$ -	\$ -							\$ -		
SUBTOTAL	0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Development Cost:		\$ 13,909,492	\$ 13,909,492							\$ -		
Total Sources:		\$ 13,909,492	\$ 13,909,492	\$ 2,149,106	\$ 9,550,105	\$ 904,282	\$ 737,550	\$ 268,450	\$ 300,000	\$ -	\$ -	\$ -

When Recorded Return To:
City of Vancouver
Affordable Housing Fund
PO Box 1995
Vancouver, WA 98668-1995
Attention: Peggy Sheehan, (360) 487-7952

CITY OF VANCOUVER, WASHINGTON DEED OF TRUST

Grantor/Borrower:	REACH 62 nd Avenue LLC
Beneficiary:	City of Vancouver by and through Affordable Housing Fund
Funding Source:	Affordable Housing Fund
Grantee/Trustee:	Clark County Title
Assessor’s Tax ID#:	986037317
Abbreviated Legal Description:	LOT 2 SP 4-066 I.64 Full legal description attached as Exhibit A
Address:	3020 NE 62 nd Ave, Vancouver, WA 98661
Contract Number:	2017-AHF-221106

THIS DEED OF TRUST is made this ____ day of _____, 2018 between REACH 62nd Avenue LLC, a Washington limited liability company (hereinafter “Borrower”), whose address is 4150 SW Moody Avenue Portland, OR 97239; Clark County Title Corporation (hereinafter “Trustee”); and the City of Vancouver, Washington, a municipal corporation, by and through its Affordable Housing Fund (hereinafter “Beneficiary”), whose address is P.O. Box 1995, Vancouver, WA 98668-1995.

The Borrower, in consideration of Affordable Housing Fund money loaned or credit extended by the Beneficiary, does convey the following real properties, situated at 3020 NE 62nd Avenue Vancouver, WA 98661 in the County of Clark, State of Washington, commonly known as the Isabella Court Phase II and described as follows:

Assessor’s Tax ID and Abbreviated Legal Description:
#986037317-LOT 2 SP 4-066 I.64a

Full legal description attached as Exhibit A.

Together with all of the easements, tenements, hereditaments and appurtenances belonging to that property, including those which may later be found to belong or appertain, all structures and improvements now or hereafter erected on the property, and any and all fixtures upon the property at the time of the execution of this Deed of Trust or at any time during the term of this Deed of Trust (hereinafter “the Property”); to have and to hold the property as so described, until such time as any and all indebtedness represented by the promissory note executed by promissory note executed by REACH Community Development, Inc. in favor of Beneficiary dated _____, 2018, (the “Note”), is extinguished, all conditions of this Deed of Trust are satisfied, and written acknowledgment of such satisfaction is provided by Beneficiary.

This conveyance is intended to secure: the performance of the obligations, covenants, and conditions set forth herein and in the Note, and payment of the Borrower’s indebtedness of a maximum of seven-hundred and thirty-seven thousand, five-hundred and fifty dollars (\$737,550) according to the terms contained in the Note.

AFFORDABILITY PERIOD
The affordability period is March 1, 2019 through December 31, 2059 during which the 17 designated Affordable Housing Fund units must meet applicable requirements.

Once the project is complete, including fulfillment of all applicable Affordable Housing Fund and City of Vancouver requirements and occupancy of the designated Affordable Housing Fund units, the City will issue a Project Completion Certification that specifies the affordability period dates.

DATE OF MATURITY
The date of maturity of the indebtedness secured by this Deed of Trust is the earliest of the dates of the following: December 31, 2059; change of the Property’s Use as specified below; failure to meet applicable regulations; the sale or transfer of all or any part of the Property, or any interest in the

Property; Borrower's breach of any covenant or failure to satisfy any condition in either the Note or this Deed of Trust; the cessation of operations by the Borrower; or payment in full of the indebtedness secured by this Deed of Trust.

For these reasons:

THE BENEFICIARY MAY DEMAND PAYMENT IN FULL OR IN PART OF THE PRINCIPAL AMOUNT OF THE NOTE(S) SECURED BY THIS DEED OF TRUST , AND PAYMENT SHALL BE DUE, UNDER CONDITIONS CONTAINED IN THIS DEED OF TRUST. THE NOTE(S) SECURED BY THIS DEED OF TRUST IS DUE AND PAYABLE IMMEDIATELY UPON THE CHANGE OF USE OF THE PROPERTY OR THE SALE OR TRANSFER OF ALL OR ANY PART OF THE PROPERTY, OR ANY INTEREST IN, THE PROPERTY, OR UPON BORROWER'S BREACH OF ANY COVENANT OR FAILURE TO SATISFY ANY CONDITION IN THE NOTE OR THIS DEED OF TRUST.

TRANSFER, SALE, OR CHANGE IN USE

As used in this Deed of Trust, "interest in the Property" shall mean any legal or beneficial interest in all or any part of the Property. If all or any part of the Property or any interest in the Property is sold or transferred, or if there is a change of use or other transfer, including but not limited to any contract for sale of the Property over time, any assumption of the loan by a transferee of the Borrower, any assignment by Borrower for the benefit of creditors, failure of the Borrower to continue to utilize the designated Affordable Housing Fund units as rental residence with income of rental households not to exceed 50% of AMI adjusted for household size (the "Use"), appointment of a receiver for Borrower, the filing of a petition for voluntary or involuntary bankruptcy of Borrower, a foreclosure of any nature against Borrower, transfer of any interest in the Property for purposes of a gift, or the death or divorce of the Borrower or Borrowers, and if such action or failure to act occurs without prior written consent of Beneficiary, Beneficiary may require immediate payment in full of all sums secured by this Deed of Trust, unless prohibited by applicable law. These terms shall not include any transfer by way of subordinate encumbrance.

Notwithstanding anything to the contrary in this Trust Deed, the following shall not be considered a transfer, sale or change of use and shall not trigger Beneficiary's right to declare any amounts secured by this Trust Deed due and payable:

1. A transfer of a non-managing member interest in the Property by the Borrower or its assigns;
2. The transfer of a security interest in the Property for purposes of financing or refinancing done with the knowledge and consent of the City of Vancouver;
3. A Sale, transfer or assignment of Borrowers interest in the Property to another 501(c)(3) organization or governmental entity reasonably acceptable to the City of Vancouver;
4. Removal by the Borrower's managing member for cause and replacement of the Borrower's managing member with any entity controlled directly or indirectly by an affiliate of the Borrower's investor member or Raymond James Tax Credit Funds, Inc.; and
5. The transfer of a leasehold interest to a residential tenant in the ordinary course of Borrower's business.

COVENANTS

The Borrower agrees that the proceeds of the loan will only be used for construction of housing to be rented to a household earning at or below 50% of AMI at initial occupancy based upon an initial and annual income review.

The Borrower covenants:

1. That Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, is the legal owner of the Property, and now has a valid and unencumbered fee simple title thereto, and that the Borrower will warrant and defend said title against all claims and demands of all other persons.
2. That Borrower will promptly pay the Note and all of its installments as they become due, according to the terms of the Note, and will promptly pay any other indebtedness secured hereby in accordance with its terms. Payments are deemed received by Beneficiary when received at the location designated in the Note or at such other location as may be designated by Beneficiary in writing from time to time.
3. That so long as this Deed of Trust shall remain in force, Borrower will timely pay all taxes, assessments, charges, fines, liens, fees, and other charges or impositions attributable to the Property which can attain priority over this Deed of Trust, or which may be levied or assessed against the Property or this Deed of Trust or the indebtedness hereby secured.

4. That Borrower shall keep the Property in good repair; not permit or commit waste of the Property; complete any building, structure or improvement thereon which may be damaged or destroyed; not move or demolish any of the improvements on the Property without the Beneficiary's written consent; and comply with all laws ordinances, regulations, covenants, conditions and restrictions affecting the Property.
5. That Borrower will keep all existing and hereafter erected structures and improvements that are part of the Property insured against loss or damage by fire, and other hazards included within the term "extended coverage perils," and any other hazards including, but not limited to earthquakes and floods, by a company or companies acceptable to the Beneficiary and for the benefit of the Beneficiary, in the amount of one hundred percent (100%) of the insurable value of the structure and improvements, and will allow the Beneficiary to examine all policies and renewals upon request
6. That Borrower hereby absolutely and irrevocably assigns to Beneficiary, for the period of this Deed of Trust, all of Borrower's rights, title, and interest in and to all proceeds from any insurance policy, whether or not required by Beneficiary, that are due, paid or payable with respect to any damage to the Property, whether the policy was in effect before, on, or after the date of this Deed of Trust. In the event of loss or damage to the Property, Borrower shall give prompt written notice to insurance carrier, Beneficiary, and Trustee.
7. That Beneficiary shall have the right to inspect the Property from time to time, subject to all applicable landlord/tenant laws.
8. That Borrower will comply with all federal, state and local laws prohibiting discrimination on the basis of age, sex marital status, race, creed, color, national origin, handicap, or familial status. These requirements are specified in Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VI; Civil Rights Act of 1968, Title VIII; Executive Order 11063; Executive Order 11246; Architectural Barriers Act of 1968; and Americans with Disabilities Act.
9. That, in accordance with applicable law, Beneficiary may from time to time appoint a successor to the Trustee appointed hereunder. Without conveyance of the Property, the successor Trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

REQUIREMENTS DURING THE AFFORDABILITY PERIOD

1. The number of designated Affordable Housing Fund units is 17. The Affordable Housing Fund units include 16 one-bedroom and 1 two-bedroom units. These units are considered "floating units." At all times 17 units shall meet the Affordable Housing Fund requirements.
2. The designated Affordable Housing Fund units may not be rented to a household whose income exceeds 50% of AMI adjusted for family size as determined by HUD at the time of initial occupancy. Adjusted income shall be calculated according to the HUD guidelines. The Borrower shall on an annual basis collect and review tenant income information for the unit and provide a copy to the Beneficiary. If upon annual income review an over-income tenant is residing in the floating unit, the next available unit must be rented to an income eligible tenant.
3. The maximum allowable Affordable Housing Fund rent shall be reduced if the tenant pays the utilities. Only utility allowances prepared and used by the Housing Authority of the City of Vancouver shall be used.
4. For the designated Affordable Housing Fund units:

Maximum rents and utility allowances must be reviewed and approved by the Beneficiary. The Project owner shall reexamine and verify the income of each tenant household living in each unit at least annually. Any increase in rent is subject to the provisions of outstanding leases, and in any event, tenants shall be given not less than thirty days prior written notice of any increase.
5. The Borrower shall not refuse leasing to a holder of a certificate for family participation under 24 CFR Part 882, or a rental voucher under 24 CFR Part 887, or to the holder of a comparable document evidencing participation in a HOME tenant based assistance program because of the status of the prospective tenant as a holder of such certificate.

RETURNED PAYMENT

If a payment of the indebtedness secured by this Deed of Trust is returned because of insufficient funds or any other reason, Beneficiary may require that any or all subsequent payments due under the Note and this Deed of Trust be made in one or more of the following forms, at Beneficiary's sole discretion: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check, or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency; or (d) Electronic Funds Transfer.

PARTIAL PAYMENT

Beneficiary may return any payment or partial payment if the payment or partial payment is insufficient to bring the Borrower current in its obligations under the Note and this Deed of Trust. Beneficiary may accept any payment or partial payment insufficient to bring Borrower's current in its obligations under the Note and this Deed of Trust without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Beneficiary is not obligated to apply such payments at the time such payments are accepted.

FAILURE TO PERFORM

A failure by the Borrower to perform the covenants or satisfy the conditions in this Deed of Trust shall give to either the Beneficiary or the Trustee the option to declare the unpaid balance due on the Note, and any other indebtedness secured hereby, at once due and payable, and this Deed of Trust may be foreclosed at any time thereafter.

The Beneficiary shall provide written notice of such failure to perform to Borrower's investor member at the following address:

Raymond James Housing Opportunities Fund 52 L.L.C.
c/o Raymond James Tax Credit Funds, Inc.
880 Carillon Parkway
St. Petersburg, Florida 33716
Facsimile No.: 727-567-8455
Attention: Steven J. Kropf, President

With a copy to:
Nixon Peabody LLP
100 Summer Street
Boston, MA 02110
Attn: Nathan A. Bernard

Borrower's investor member shall have the right, but not the obligation, to cure any defaults hereunder and the parties agree to accept such performance as if undertaken by the Borrower.

INSURANCE

In the event that Borrower fails to provide or maintain insurance as provided herein, Beneficiary may obtain insurance coverage, at Beneficiary's option and Borrower's expense. Beneficiary is under no obligation to purchase any particular type or amount of coverage, therefore such coverage might insure Beneficiary against loss, but might or might not insure Borrower. Any amounts that Beneficiary pays as insurance premiums under this provision shall become additional debt of Borrower secured by this Deed of Trust shall relate back to the original debt, and shall bear interest at the Note rate from the date Beneficiary pays a premium until Borrower repays that amount in full, and shall be payable immediately upon written notice to Borrower from Beneficiary.

HAZARDOUS SUBSTANCES

Borrower shall not cause, allow, or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances on or in the Property. As used herein, "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by state or federal law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. The preceding requirement does not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances both of kinds and of amounts that are generally recognized to be appropriate to construction of the Property and normal residential uses and to maintenance of the Property, including but not limited to Hazardous Substances commonly found in consumer products. Borrower shall promptly give Beneficiary written notice of any investigation, claim, citation, demand, lawsuit, charge, or any other action that is commenced or threatened against it by any governmental agency or private party concerning Hazardous Substances on the Property.

ACCELERATION AND FORECLOSURE

The Beneficiary is authorized by the Borrower (in accordance with the foregoing) to declare at its option all or any part of the indebtedness secured by this Deed of Trust immediately due and payable upon: (1) the Beneficiary's discovery of either the Borrower's failure to disclose any fact deemed by the Beneficiary to be material to the making of the loan or material to any of the agreements entered into by the Borrower with the Beneficiary (including, but not limited to, the Note and Deed of Trust), or any misrepresentation by, on behalf of, or for the benefit of, the Borrower during the entire term of this Deed of Trust; (2) the change of Use of the Property; (3) the sale or other transfer of all or any part of the Property or of any interest in the Property except as otherwise permitted by the Deed of Trust; or (4) any other material breach of the terms of this Deed of Trust or the Note. This Deed of Trust may be foreclosed by advertisement and sale in accordance with prevailing law of the State of Washington at the time of foreclosure. In the event of such foreclosure, the Beneficiary shall be entitled to recover its reasonable expenses, trustee fees and, as provided herein, attorney fees.

RECONVEYANCE

Upon payment or forgiveness of all sums secured by this Deed of Trust, and Borrower's satisfaction and performance of all conditions and covenants of this Deed or Trust and compliance with all other provisions of the Note and this Deed of Trust, Beneficiary shall request Trustee to reconvey the Property and shall surrender to Trustee this Deed of Trust and the Note evidencing the debt secured by this Deed of Trust. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Beneficiary or Trustee may charge the person or persons legally entitled to the Property a fee for the reconveyance, subject to applicable law.

SUBSTITUTE TRUSTEE

In accordance with applicable law, Beneficiary may from time to time appoint a successor to any Trustee appointed hereunder who has ceased to act as such. Without conveyance of the Property, the successor Trustee shall succeed to all the title, power and duties conferred upon the Trustee herein.

VENUE AND CHOICE OF LAW

This Deed of Trust shall be governed and enforced in accordance with the laws of the State of Washington, not including and notwithstanding rules governing conflicts of law. Jurisdiction over and venue of any suit to enforce, interpret, construe or otherwise in connection herewith may, at Beneficiary's option, be had in Clark County, Washington.

ATTORNEYS' FEES

In the event of any proceeding, suit or action to enforce, interpret, or foreclose this Deed of Trust, and if, and only if Beneficiary prevails in such action, Beneficiary shall be entitled to recover its reasonable attorneys' fees and costs, including without limitation any attorneys' fees incurred by Beneficiary in any bankruptcy proceeding. In the event of any kind of appeal, the losing party on appeal agrees to pay all reasonable costs and fees, including attorneys' fees and costs incurred in connection with the appeal.

EMINENT DOMAIN

Borrower further agrees that in the event any portion or all of the Property is taken under right of eminent domain or condemnation, Beneficiary shall have the right to require that the compensation be paid to Beneficiary and applied, first, to the Beneficiary's reasonable costs and attorney fees and second, to the indebtedness secured by this Deed of Trust.

CONSTRUCTION: TITLES

In construing this Deed of Trust, it is understood that if the context so requires, the singular shall be taken to mean and include the plural, and that references to Beneficiary or Borrower include any transferee, to whatever extent transfer is permitted under this Deed of Trust. The section titles provided herein are meant as references only and for ease of reading, and are not intended to carry any legal significance.

NON-RECOURSE

Borrower and its members shall have no personal liability for payment of the indebtedness evidenced by the Note or performance of any other covenants or conditions set forth in the Note or in this Deed of Trust; the Beneficiary's recourse pursuant to the Note shall be confined to the exercise of its rights under this Deed of Trust.

[signatures on following page]

BY SIGNING BELOW, Borrower expressly accepts and agrees to the terms and covenants contained in this Deed of Trust, the Note, and any other documents recorded in conjunction with it, as mentioned herein:

BORROWER:

REACH 62ND AVENUE LLC,
a Washington limited liability company

By: REACH IC2 LLC,
a Washington limited liability company,
its Managing Member

By: REACH Community Development, Inc.,
an Oregon nonprofit public benefit corporation,
its Manager

By: _____
Jessica Woodruff
Director of Housing Development

CORPORATE NOTARY

STATE OF OREGON)
) ss.
County of Multnomah)

On the ____ day of _____, 2018, before me, a Notary Public in and for the State of Oregon, personally appeared Jessica Woodruff, the Director of Housing Development of REACH Community Development, Inc., the Manager of REACH IC2 LLC, the managing member of REACH 62nd Avenue LLC, a Washington limited liability company, executed the same for the purpose therein stated.

Notary Public for Oregon
My commission expires:_____
Commission No.:_____

REQUEST FOR FULL RECONVEYANCE

To _____, Trustee:

The undersigned, The City of Vancouver Washington, through its Affordable Housing Fund (Beneficiary), is the legal owner and holder of all indebtedness and other obligations evidenced by that certain Promissory Note made on _____, 2018 by REACH Community Development, Inc., an Oregon non-profit corporation and assigned to REACH 62nd Avenue LLC (Borrower), and secured by that certain Deed of Trust made _____, 2018 by Borrower as grantor in favor of Beneficiary as grantee, recorded as Auditor's fee/file No. _____, records of Clark County, Washington; and pursuant to which you are the Trustee.

YOU ARE HEREBY DIRECTED, on payment to you of any sums owing to you under the terms of said Deed of Trust or pursuant to statute, to reconvey, without warranty, to the party or parties entitled thereto by the terms of said Deed of Trust, the estate now held by you under the same.

All sums due and other obligations secured by said Deed of Trust have been fully paid and satisfied, and you are directed to cancel all evidence of indebtedness secured by said Deed of Trust (which are delivered to you herewith together with said Deed of Trust).

Dated: _____

City Manager, or his designate
City of Vancouver, Washington

STATE OF WASHINGTON)
)ss
COUNTY OF CLARK)

On this ____ day of _____, ____ before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of the _____, the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of the said entity, for uses and purposes therein mentioned, and on oath stated that she is authorized to execute the said instrument on behalf of the said entity.

WITNESS my hand and official seal hereto the day and year in the certificate above written.

NOTARY PUBLIC in and for the State of Washington,
My Commission Expires: _____

EXHIBIT A:
PROPERTY LEGAL DESCRIPTION

This EXHIBIT A is attached to and part of the DEED OF TRUST dated as of _____, 2018 between REACH 62nd Avenue LLC, a Washington limited liability company, as "Borrower", and the CITY OF VANCOUVER, WASHINGTON, as "Beneficiary".

Tax ID # 986037317

Property Description:

LOT 2 OF SHORT PLAT, RECORDED IN BOOK 4 OF SHORT PLATS, PAGE 66, RECORDS OF CLARK COUNTY, WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 19, TOWNSHIP 2 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, AND RECORDED NOVEMBER 9, 2015, UNDER AUDITOR'S FILE NO. 5230744, RECORDS OF CLARK COUNTY, WASHINGTON.

TOGETHER WITH AN ACCESS EASEMENT OVER AND ACROSS LOT 1 OF SHORT PLAT, RECORDED IN BOOK 4 OF SHORT PLATS, PAGE 66, RECORDS OF CLARK COUNTY, WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 19, TOWNSHIP 2 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, AND RECORDED NOVEMBER 9, 2015, UNDER AUDITOR'S FILE NO. 5230744, RECORDS OF CLARK COUNTY, WASHINGTON, AS DELINEATED THEREON.

SITUATE IN THE CITY OF VANCOUVER, COUNTY OF CLARK, STATE OF WASHINGTON.

CITY OF VANCOUVER WASHINGTON PROMISSORY NOTE

Date: _____, 2018, Vancouver, Washington

Grantor/Borrower:	REACH Community Development, Inc.
Beneficiary:	City of Vancouver by and through Affordable Housing Fund
Funding Source:	Affordable Housing Fund
Grantee/Trustee:	Clark County Title
Assessor's Tax ID#:	986037317
Abbreviated Legal Description:	LOT 2 SP 4-066 I.64
Address:	3020 NE 62 nd Ave, Vancouver, WA 98661
Contract Number:	2017-AHF-221106

FOR VALUE RECEIVED, the undersigned (individually and collectively), REACH Community Development, Inc., an Oregon nonprofit corporation (hereinafter "Borrower") promises to pay to the order of the City of Vancouver, Washington (hereinafter "Beneficiary") by and through its Affordable Housing Fund, the sum of seven-hundred and thirty-seven thousand, five-hundred and fifty dollars (\$737,550). The \$737,550 shall be provided in the form of a 1% interest loan, compounding annually, with annual payments of \$20,435.78 starting December 1, 2020 and ending December 1, 2039. The remaining unpaid principal, if any, and accrued interest shall be due and payable on December 31, 2059 unless such payment is forgiven by the Beneficiary in its sole discretion.

The loan documented by this Note is for the purpose of assisting the Borrower in the development of Isabell Court Phase II, located at 3020 NE 62nd Avenue in Vancouver Washington. The 17 designated Affordable Housing Fund units will be developed and rented to people who are at or below 50% of AMI. The development is to be located on certain real property located in Vancouver, Washington, and with the description as follows (the "Property"):

Assessor's Tax ID# and Abbreviated Legal Description:
#986037317- LOT 2 SP 4-066 I.64

This loan is also documented by an Agreement between Beneficiary and Borrower (the "Agreement") and a deed of trust granting a security interest in the Property (the "Deed of Trust").

The maturity date of this Note is December 31, 2059 (the "Maturity Date").

Except as otherwise provided for herein, this Note may at the option of the Beneficiary become due and payable upon any actual transfer of ownership of the Property, which shall include but not be limited to voluntary or involuntary transfers, including by operation of law, or upon the cessation of operations, or violation of the Deed of Trust.

"Actual transfer of ownership" as used in the preceding paragraph shall not include any of the following:

1. A transfer of a non-managing member interest in the Borrower or its assigns;
2. The transfer of a security interest in the Property for purposes of financing or refinancing done with the prior notice to and consent of Beneficiary;
3. Sale, transfer or assignment of Borrower's interest in the Property, done with the prior notice to and consent of Beneficiary, to another 501(c)(3) organization or governmental entity reasonably acceptable to Beneficiary; and
4. Any other transfer permitted under the Deed of Trust.

Borrower will repay the loan amount on the Maturity Date or when the property ownership is transferred through a purchase and sale without permission by the City of Vancouver, or when the Property is not operated as required in the Agreement.

Said payment shall be made in lawful money of the United States of America at the office of the City of Vancouver, Attn: Affordable Housing Fund, PO Box 1995, Vancouver, WA 98668.

Should Borrower default in the use of the Property, in the payment of any principal or interest as required in this Note, or if any of the makers, endorsers or guarantors hereof becomes insolvent, commences or becomes subject to bankruptcy, reorganization, receivership, liquidation,

conservatorship, assignment for the benefit of creditors or similar proceedings, or if the Property is used for any activity other than permitted by the Deed of Trust, or if any notice of sale is given or any sale is made of the Property; or if any material statement or representation made by Borrower to Beneficiary shall prove to be false or misleading; then the entire indebtedness evidenced hereby shall at the option of Beneficiary become immediately due and payable, without notice or demand. In addition, Borrower agrees, to pay to Beneficiary all costs and expenses of enforcing Beneficiary's rights hereunder, including reasonable attorney's fees and costs, whether or not suit has been filed and including pre-trial, trial, appellate and bankruptcy proceedings.

The Borrower reserves the right to repay at any time all or any portion of the principal amount of this Note in a single payment without the payment of penalties, discount or premiums. Borrower acknowledges that the repayment of the Note shall not release it from its obligations, conditions and covenants pursuant to the Deed of Trust.

Borrower and each maker, endorser, and guarantor hereof waives presentment, demand, protest, and notice of dishonor and agrees to remain bound for payment of this obligation notwithstanding any extension of time, substitution or release of security or any guarantor or any other indulgence granted the maker(s) of any of them, hereby waiving notice of such extension, substitution, release or other indulgence.

Notwithstanding anything to the contrary herein, Borrower or its members shall have no personal liability for payment of the indebtedness evidenced hereby or performance of any other covenants or conditions set forth in this Note, in the Deed of Trust, or in the Agreement; the Beneficiary's sole recourse pursuant to this Note shall be confined to the exercise of its rights under the Deed of Trust.

Borrower's investor member shall have the right, but not the obligation, to cure any defaults hereunder and the Beneficiary agree to accept such performance as if undertaken by the Borrower.

This Note shall be governed and enforced in accordance with the laws of the State of Washington, not including and notwithstanding rules governing conflicts of law. Jurisdiction over and venue of any action to enforce, interpret, construe or otherwise in connection herewith may, at the City of Vancouver's option, be held in a court located in Clark County, Washington.

[signatures on following page]

IN WITNESS WHEREOF, this Note and the Deed of Trust securing this Note have been duly executed by the undersigned Borrower, as of the date above written.

REACH Community Development, Inc.,
an Oregon nonprofit public benefit corporation

Signature

Print Name: Jessica Woodruff

Title: Director of Housing Development

REACH Community Development, Inc.
Borrower

4150 SW Moody Ave. Portland, OR 97239
Address

When Recorded Return To:
City of Vancouver
Affordable Housing Fund
PO Box 1995
Vancouver, WA 98668-1995
Attention: Peggy Sheehan, (360) 487-7952

**CITY OF VANCOUVER, WASHINGTON
LOW INCOME HOUSING COVENANT AGREEMENT**

Grantor/Borrower:	REACH 62 nd Avenue LLC
Beneficiary:	City of Vancouver by and through Affordable Housing Fund
Funding Source:	Affordable Housing Fund
Grantee/Trustee:	Clark County Title
Assessor's Tax ID#:	986037317
Abbreviated Legal Description:	LOT 2 SP 4-066 I.64 Full legal description attached as Exhibit A
Address:	3020 NE 62 nd Ave, Vancouver, WA 98661
Contract Number:	2017-AHF-221106

This Low Income Housing Covenant Agreement (the "Covenant") is made between REACH 62nd Avenue LLC, a Washington limited liability company (hereinafter "Borrower"), whose address is 4150 SW Moody Avenue, Portland, OR 97239 and the City of Vancouver, Washington (a municipal corporation)(hereinafter "Beneficiary"), in consideration for the financial assistance provided by the City of Vancouver Affordable Housing Program to REACH CDC pursuant to an Affordable Housing Fund Agreement , Contract Number 2017-AHF-221106 (the "Contract"), for the construction of the Isabella Court Phase II at the site described as follows:

Assessor's Tax ID# and Abbreviated Legal Description:
#986037317- LOT 2 SP 4-066 I.64a

Full legal description attached as Exhibit A.

This Covenant will be filed and recorded in the official public land records of Clark County, Washington and shall constitute a restriction upon the use of the property described herein, subject to and in accordance with the terms of this Covenant, during the City of Vancouver Housing affordability period of March 1, 2019 through December 31, 2059.

The covenants contained herein are to be taken and construed as covenants running with the land and shall pass to and be binding upon the Grantor, his successors and assigns heirs, grantees, or lessees of the Property for the duration of the affordability period. Each and every contract, deed or other instrument covering or conveying the Property, or any portion thereof, shall be conclusively held to have been executed, delivered and accepted subject to such covenants, regardless of whether such covenants are set forth in such contract, deed, or other instruments.

NOW, THEREFORE, it is hereby covenanted, that during the affordability period:

Borrower will preserve 17 units in this Property as long-term affordable rental units for low income people with incomes, at the time of initial occupancy, at fifty percent (50%) or less of the median income in Clark County, Washington, adjusted for family size, as estimated from time to time by the United States Department of Housing and Urban Development (HUD). If HUD ceases to provide such estimates of median income, then median income shall mean such comparable figures for Clark County, Washington published or reported by a federal, state, or

local agency as the County shall select. Borrower will obtain approval from the City of Vancouver Housing Program staff prior to entering into any agreements for use of the property.

In keeping with the responsibility that accompanies the use of public funds, Borrower shall keep all records and make any reports relating to compliance with this Covenant Agreement that the Beneficiary may reasonably require. In addition, Borrower agrees that Beneficiary, by and through the City of Vancouver staff, may at any reasonable time and upon reasonable notice review Borrower for matters consistent with this Covenant, in accordance with applicable law.

DEFAULT: If a violation of this Covenant occurs, the Beneficiary may, after 30 days notice to the Borrower, institute and prosecute any proceeding at law or equity to abate, default the loan, prevent, or enjoin any such violation or to compel specific performance by the Borrower of its obligations hereunder; provided that, the Borrower shall not be required by any provision herein to evict a residential tenant. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage, or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time. **Borrower's investor member shall have the right, but not the obligation, to cure any defaults hereunder and the parties agree to accept such performance as if undertaken by the Borrower.**

IN WITNESS HEREOF, REACH 62nd Avenue LLC, a Washington limited liability company, has executed this Covenant on the _____ day of _____, 2018.

BORROWER:

REACH 62ND AVENUE LLC,
a Washington limited liability company

By: REACH IC2 LLC,
a Washington limited liability company,
its Managing Member

By: REACH Community Development, Inc.,
an Oregon nonprofit public benefit corporation,
its Manager

By: _____
Jessica Woodruff
Director of Housing Development

CORPORATE NOTARY

STATE OF OREGON)
) ss.
County of Multnomah)

On the ____ day of _____, 2018, before me, a Notary Public in and for the State of Oregon, personally appeared Jessica Woodruff, the Director of Housing Development of REACH Community Development, Inc., the Manager of REACH IC2 LLC, the managing member of REACH 62nd Avenue LLC, a Washington limited liability company, executed the same for the purpose therein stated.

—

Notary Public for Oregon
My commission expires:_____
Commission No.:_____

EXHIBIT A:
PROPERTY LEGAL DESCRIPTION

This EXHIBIT A is attached to and part of the COVENANT dated as of _____, 2018 between REACH 62nd Avenue LLC, a Washington limited liability company, as “Borrower”, and the CITY OF VANCOUVER, WASHINGTON, as “Beneficiary”.

Tax ID # 986037317

Property Description:

LOT 2 OF SHORT PLAT, RECORDED IN BOOK 4 OF SHORT PLATS, PAGE 66, RECORDS OF CLARK COUNTY, WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 19, TOWNSHIP 2 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, AND RECORDED NOVEMBER 9, 2015, UNDER AUDITOR'S FILE NO. 5230744, RECORDS OF CLARK COUNTY, WASHINGTON.

TOGETHER WITH AN ACCESS EASEMENT OVER AND ACROSS LOT 1 OF SHORT PLAT, RECORDED IN BOOK 4 OF SHORT PLATS, PAGE 66, RECORDS OF CLARK COUNTY, WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 19, TOWNSHIP 2 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, AND RECORDED NOVEMBER 9, 2015, UNDER AUDITOR'S FILE NO. 5230744, RECORDS OF CLARK COUNTY, WASHINGTON, AS DELINEATED THEREON.

SITUATE IN THE CITY OF VANCOUVER, COUNTY OF CLARK, STATE OF WASHINGTON.

When Recorded Return to:

City of Vancouver
CDBG and HOME Programs
PO Box 1995
Vancouver, WA 98668-1995

Attention: Peggy Sheehan, (360) 487-7592

ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT

Grantor (Assignor):	REACH Community Development, Inc.
Grantee (Assignee):	REACH 62 nd Avenue LLC
Beneficiary (Lender):	City of Vancouver by and through its Affordable Housing Fund
Legal Description (abbreviated):	LOT 2 SP 4-066 1.64 [Full legal description is provided on Page 2]
Assessor's Property Tax Parcel Number(s):	986037317
Contract Number:	2017-AHF-221106

THIS ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT ("Assumption Agreement") is entered into as of this ____ day of _____, 2018, by and among REACH Community Development, Inc., an Oregon non-profit public benefit corporation, with its principal offices at 4150 SW Moody Avenue, Portland, OR 97239 (hereinafter called "Assignor"), REACH 62nd Avenue LLC, a Washington limited liability company, whose mailing address is 4150 SW Moody Avenue, Portland, OR 97239 (hereinafter called "Assignee"), and the City of Vancouver whose mailing address is CDBG and HOME Programs, PO Box 1995, Vancouver, WA 98668-1995 (hereinafter called "Lender").

WHEREAS, Assignor and Lender are parties to that certain Agreement (Agreement Number 2017-AHF-221106) dated as of _____, 2018 whereby Lender has agreed to loan Assignor _____ and 00/100 Dollars (\$ _____ .00) (the "Agreement");

WHEREAS, Assignor executed a City of Vancouver Washington Promissory Note (the "Note") dated _____, 2018 to pay Lender or the holder of the Note the principal sum of _____ and 00/100 Dollars (\$ _____ .00);

WHEREAS, on the ____ day of _____, 2018, to secure payment of the Note, Assignee executed a City of Vancouver, Washington Deed of Trust (the "Deed of Trust") naming the Lender as the Beneficiary, which Deed of Trust was recorded under Clark County Auditor's Number _____

_____ and concerned real property (the "Property") located in Clark County, Washington described as follows:

LOT 2 OF SHORT PLAT, RECORDED IN BOOK 4 OF SHORT PLATS, PAGE 66, RECORDS OF CLARK COUNTY, WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 19, TOWNSHIP 2 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, AND RECORDED NOVEMBER 9, 2015, UNDER AUDITOR'S FILE NO. 5230744, RECORDS OF CLARK COUNTY, WASHINGTON.

TOGETHER WITH AN ACCESS EASEMENT OVER AND ACROSS LOT 1 OF SHORT PLAT, RECORDED IN BOOK 4 OF SHORT PLATS, PAGE 66, RECORDS OF CLARK COUNTY, WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 19, TOWNSHIP 2 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, AND RECORDED NOVEMBER 9, 2015, UNDER AUDITOR'S FILE NO. 5230744, RECORDS OF CLARK COUNTY, WASHINGTON, AS DELINEATED THEREON.

SITUATE IN CLARK COUNTY, WASHINGTON.

WHEREAS, on the _____ day of _____, 2018, Assignee executed a City of Vancouver, Washington Low-Income Housing Covenant Agreement (the "Covenant") naming the Lender as the Beneficiary, which Covenant was recorded under Clark County Auditor's Number _____;

WHEREAS, Assignor wishes to assign to Assignee and to have Assignee assume all of Assignor's rights and obligations under the Agreement and the Note and Assignee is willing to assume all of said obligations of Assignor thereunder; and

WHEREAS, Assignor seeks the consent of Lender to the assignment and assumption of the Agreement and the Note as set forth herein, and Lender is willing to grant such consent on the terms and conditions set forth herein;

WHEREAS, the parties hereto wish to provide for certain notice and other provisions related to the Investor Members (as hereinafter defined);

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Assignment. Assignor hereby sells, transfers, assigns, grants, and conveys to Assignee all of its right, title, obligations and interest existing as of this date in and under the Agreement and the Note.

2. Assumption. Assignee hereby expressly assumes and agrees to make punctual payment when due (whether on the stated dates, by acceleration or otherwise) of the principal of and interest on the Note, as set forth in the Agreement and the Note. Assignee further assumes all other obligations of Assignor under the Agreement and the Note subject to the nonrecourse provisions therein. Assignee hereby expressly assumes and agrees to perform, observe and confirm all the covenants, agreements, terms, conditions, obligations, duties and liabilities of Assignor under the Agreement and the Note, and any other documents or instruments executed and delivered or furnished by Assignor in connection therewith.

3. Consent. Lender hereby consents to the foregoing assignment and assumption of the Assignor's right, title, obligations and interest under the Agreement and the Note pursuant to the terms and conditions set forth herein.

4. Investor Member Provisions.

- (a) Lender recognizes that part of the financing for Isabella Court Phase 2 (the "Project") may come from investors motivated by the federal low-income housing tax credit and other tax considerations. To secure such an investment, Assignor has formed the Assignee, and the sole member and manager of the Assignee is the Assignor with one or more investors making their investment in the Project as investor members and /or special members (collectively the "Investor Members").
- (b) If a monetary event of default occurs under the terms of the Agreement, the Deed of Trust, the Covenant, or the Note (together, the "Loan Documents"), prior to exercising any remedies thereunder, the Lender shall give the Assignee and the Investor Members simultaneous written notice of such default. The Investor Members or their assigns shall have a period of fifteen (15) days after such notice is given within which to cure the default prior to exercise of remedies by the Lender or such longer period of time as may be specified in the Loan Documents. The Lender's liability for notification shall be limited to notifying all parties at the last known address as shown in the Lender's files. The Assignee and Investor Members are responsible for ensuring that the Lender has current names, addresses and telephone numbers for all parties entitled to notice under the Loan Documents.
- (c) If a non-monetary event of default occurs under the terms of any of the Loan Documents, prior to exercising any remedies thereunder, the Lender shall give the Assignee and the Investor Members simultaneous written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the Investor Members or their assigns shall have such period to effect a cure prior to exercise of remedies by the Lender under the Loan Documents, or such longer period of time as may be specified in the Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days or such longer period if so specified, and if the Investor Members or their assigns (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then the Investor Members or their assigns shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the Lender. If the Investor Members or their assigns fails to take corrective action or to cure the default within a reasonable time, the Lender shall give the Assignee and the Investor Members written notice thereof, whereupon the Investor Members may remove and replace the Assignor as managing member of the sole member and manager of the Assignee with a substitute managing member who shall be approved in advance by the Lender and who shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions. In no event shall the Lender be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within one hundred eighty (180) days after the first notice of default is given, or such longer period of time as may be specified in the Loan Documents. The Lender's liability for notification shall be limited to notifying all parties at

the last known address as shown in the Lender's files. The Investor Members and the Assignee are responsible for ensuring that the Lender has current names, addresses and telephone numbers for all parties entitled to notice under the Loan Documents.

- (d) **Investor Members' Cure.** The Investor Members shall have the right, but not the obligation, to cure any default of Assignor under this Agreement or any other Loan Document. LENDER hereby agrees that any cure of any default made or tendered by the Investor Members shall be deemed to be a cure by Assignor and shall be accepted or rejected on the same basis as if made or tendered by Assignor. LENDER agrees that the Loan Documents will not be considered to be in default until the expiration of all contractual notice and cure periods provided to Assignor and the Investor Members.

Notice to the Investor Members shall be at the following address:

Raymond James Housing Opportunities Fund 52 L.L.C.
c/o Raymond James Tax Credit Funds, Inc.
880 Carillon Parkway
St. Petersburg, Florida 33716
Facsimile No.: 727-567-8455
Attention: Steven J. Kropf, President

With a copy to:
Nixon Peabody LLP
100 Summer Street
Boston, MA 02110
Attn: Nathan A. Bernard

5. **Representations and Warranties of Assignee.** In order to induce Lender to consent to the assignment and assumption provided for herein, Assignee hereby represents to Lender that:

- (a) Assignee is a limited liability company duly organized and validly existing under the laws of the State of Washington.
- (b) Assignee has the full right, power and authority to conduct all of the activities which are now conducted by it or proposed to be conducted as contemplated by the Agreement, to execute, deliver and perform under this Assumption Agreement, and to assume the obligations of Assignor and to fulfill its duties under the Agreement. The sole member and manager of the Assignee has full right, power and authority to execute and deliver this Agreement on behalf of Assignee.
- (c) There is no action, suit or proceeding or any investigation pending or, to the best of Assignee's knowledge, threatened against or affecting Assignee, its managing member or the sole member and manager of the managing member, at law or in equity in any court or by any federal, state, municipal or other governmental authority, department, commission, board, agency or other governmental instrumentality which is likely to have an adverse effect on Assignee's ability to assume the obligations and to fulfill the duties of Assignor under the Agreement.

- (d) Neither Assignee nor its managing member or the sole member and manager of the managing member is in default or alleged to be in default with respect to any judgment, order, writ, injunction or decree or in breach or alleged to be in breach or default under any material lease, contract, agreement, commitment, instrument or obligation to which it is a party or by which it or its property is bound; and to the best of Assignee's knowledge, there is no state of facts which is likely to create or cause a default or breach under any such material lease, contract, agreement, commitment, instrument or obligation.
- (e) To the best of Assignee's knowledge and belief, Assignee has complied in all material respects with all federal, state and local laws, regulations and orders applicable to the ownership of its properties and the conduct of its operations.
- (f) To the best of Assignee's knowledge and belief, Assignee has taken all limited liability company and other action, and the sole member and manager of the managing member of Assignee has taken all corporate and other action, necessary to authorize the execution and delivery of this Assumption Agreement, and this Assumption Agreement is a valid and binding obligation of Assignee, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other law and equity principles applied for the relief of debtors heretofore or hereafter enacted, to the extent that the same may be constitutionally applied. To the best of Assignee's knowledge and belief, neither the execution and delivery of this Assumption Agreement nor the consummation of the transactions contemplated hereby will constitute a violation or breach of Assignee's amended and restated operating agreement or any provision of any contract or other instrument to which Assignee or Assignee's managing member is a party or by which either or the property of either is bound, or any constitutional provision, statute or ordinance, or any order, writ, injunction, decree, rule or regulation of any court or regulatory agency. No consent, order, authorization or other approval of any governmental body or agency is required in order for Assignee to execute, deliver and perform its obligations under this Assumption Agreement.

6. Representations and Warranties of Assignor. In order to induce Lender to consent to the assignment and assumption provided for herein, Assignor hereby represents to Lender that the representations and warranties of Assignor in the Agreement are true and correct in all material respects as of the date hereof.

7. Further Assurances. At any time and from time to time, upon Lender's (or its successor agency's) request, Assignee will promptly and duly execute and deliver any and all further instruments and documents and take such further action as Lender may deem reasonable to effect the purposes of this Assumption Agreement, including (without limitation) the filing of any financing or continuation statements under the Uniform Commercial Code in effect in any jurisdiction in order to place on the public records notice of the effect of this Assumption Agreement.

8. Survival of Representation and Warranties. All representations and warranties made in this Assumption Agreement and in any document, certificate or statement delivered by Assignee in connection herewith shall survive the execution and delivery of this Assumption Agreement.

9. Successors and Assigns. This Assumption Agreement shall be binding upon Assignee and its successors and assigns and shall inure to the benefit of Lender and its successors and assigns; provided, however that Assignee shall not have the right to assign any of its obligations or rights hereunder, except as expressly provided herein or in the Loan Documents, without the prior written consent of Lender.

10. Governing Law. This Assumption Agreement shall be governed by, construed and interpreted in accordance with, the laws of the State of Washington.

11. Non-Recourse Loan: Notwithstanding anything to the contrary herein, Assignor, the Assignee, its assigns and their respective members, partners, officers, directors, employees, agents and contractors shall have no personal liability for payment of the indebtedness evidenced hereby or performance of the covenants set forth in the Note, in the Deed of Trust or in the Agreement, and the recourse of the holder hereof shall be confined to the exercise of its rights under the Deed of Trust.

[SIGNATURE AND NOTARY PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Assumption Agreement to be executed as of the day and year written above and warrant by signing below that they have the authority to enter into this Assumption Agreement.

ASSIGNOR:

REACH COMMUNITY DEVELOPMENT, INC.,
an Oregon non-profit public benefit corporation

By: _____

Printed Name: _____

Title: _____

STATE OF OREGON)
) ss.
County of Multnomah)

On the ____ day of _____, 2018, before me, a Notary Public in and for the State of Oregon, personally appeared Jessica Woodruff, the Director of Housing Development of REACH Community Development, Inc. and executed the same for the purpose therein stated.

Notary Public for Oregon
My commission expires: _____
Commission No.: _____

IN WITNESS WHEREOF, the parties hereto have caused this Assumption Agreement to be executed as of the day and year written above and warrant by signing below that they have the authority to enter into this Assumption Agreement.

ASSIGNEE:

REACH 62ND AVENUE LLC,
a Washington limited liability company

By: REACH IC2 LLC,
a Washington limited liability company,
its Managing Member

By: REACH Community Development, Inc.,
an Oregon nonprofit public benefit corporation,

its Manager

By: _____
Jessica Woodruff
Director of Housing Development

STATE OF OREGON)
) ss.
County of Multnomah)

On the ____ day of _____, 2018, before me, a Notary Public in and for the State of Oregon, personally appeared Jessica Woodruff, the Director of Housing Development of REACH Community Development, Inc., the Manager of REACH IC2 LLC, the managing member of REACH 62nd Avenue LLC, a Washington limited liability company, executed the same for the purpose therein stated.

Notary Public for Oregon
My commission expires: _____
Commission No.: _____



Staff Report 101-18

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 7/2/2018

SUBJECT AFSCME Collective Bargaining Agreement

Key Points

- New three-year collective bargaining agreement (CBA) effective January 1, 2018 – December 31, 2020.
- 2% salary schedule adjustment for covered classifications for each calendar year, effective January 1, 2018 through December 31, 2020.
- Maintains the City health care contribution of up to 5% of any increasing premium costs each year for the life of the contract.
- Allows a union representative access to new employees within the first ninety (90) days of the employee's start date for the purpose of presenting information about the bargaining unit in accordance with recently approved Senate Bill 6229.
- Requires employees new to a position requiring a CDL to obtain a CDL permit. within six months.
- Incorporates Facilities Maintenance Specialist classifications into the pay schedule and clarifies layoff/bumping rights between the Facilities Maintenance Specialist II position and the Building Repair Specialist.
- Extends grievance procedure timelines from five (5) to ten (10) working days.
- Provides for a \$600 one-time ratification bonus payable on the first full pay period after Council ratification.

Strategic Plan Alignment

N/A

Present Situation

The labor agreement between the City and the AFSCME Local 307VC bargaining unit expired on December 31, 2017. The parties were able to work through a collaborative process and consensual decision making on many of the provisions for a new three-year agreement. The labor agreement is being brought to Council for approval.

Advantage(s)

If ratified, the City and bargaining unit will have a collective bargaining agreement and will be operating under an agreement that meets the business needs of both parties.

Disadvantage(s)

There are no known disadvantages to ratifying.

Budget Impact

Funding for the wage adjustments resulting from ratification of the 2018-2020 collective bargaining agreement with AFSCME Local 307VC is available in the budget.

Prior Council Review

None.

Action Requested

Authorize the City Manager or his designee to sign the 2018-2020 Collective Bargaining Agreement with AFSCME Local 307VC.

Lenda Crawford, Deputy City Manager, 487-8500

ATTACHMENTS:

- ▣ 2018-2020 AFSCME Collective Bargaining Agreement
- ▣ 2017 Redline AFSCME Agreement

Agreement
by and between
City of Vancouver
and
AFSCME, Local #307VC

January 1, 2018 – December 31, 2020

AFSCME Contract

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PREAMBLE

This agreement is entered into by the City of Vancouver, Washington, hereafter referred to as “Employer” and Local 307 of the American Federation of State, City and Municipal Employees, AFL-CIO, hereinafter referred to as the “Union.”

The purpose of this agreement is to set forth the mutual understanding of the parties as to wages, hours and working conditions consistent with the Employer’s and the Union’s mutual objective of providing ever-improved, efficient, effective, uninterrupted performance of City functions, and courteous services to the public. It is the Employer’s responsibility to provide services that promote the health, safety and welfare of the public through means that are cost-effective, progressive, responsive, courteous and productive. The Union is committed to those efforts. The Employer and Union share a mutual interest in engaging in efforts to promote a labor relations environment that is conducive to achieving a high level of efficiency and productivity in all departments of City government.

Except as otherwise required by law, regulation or grant provisions, the parties agree to the provisions in this agreement.

1. Recognition and Bargaining Unit

1.1 The Employer hereby recognizes the union as the sole and exclusive bargaining agent for the purposes of establishing wages, hours, fringe benefits, and working conditions for employees of the City within this bargaining unit. The classifications currently covered by this agreement are set forth herein, but are not limited to those included in Appendix A to this Agreement. City employees who are excluded from the bargaining unit are:

- A. Temporary, seasonal;
- B. Employees certified to another bargaining unit;
- C. Supervisory and confidential employees;
- D. Others as mutually determined by the parties;
- E. Elected officials and their appointed staff
Designated as unclassified service per
RCW 41.50.030(2).

Definitions

Regular Full-Time Employee: Employees who hold a budgeted/Council approved position and who are normally scheduled to work at least 37.5 hours per week.

Regular Part-time Employee: Employees who hold a part-time budgeted/Council approved position and who are normally scheduled to work a minimum of 20 hours and less than 37.5 hours per week. Part-time employees receive benefits and accrue seniority on a pro-rated basis, based on their budgeted or assigned FTE percentage. An example of this would be: an employee working half time (20 hours/week) for 10 years shall receive seniority credit for 5 years of service.

Exempt Employee: Employees designated under the Fair Labor Standards Act (FLSA) as exempt are not eligible for overtime. Recreation Coordinators (Recreation Specialist C and D) are FLSA exempt employees.

Non-Exempt Employee: Employees designated under the Fair Labor Standards Act (FLSA) as non-exempt are overtime eligible.

1.2 The Employer will notify the Union regarding newly created or substantially modified classifications to provide the opportunity to comment on inclusion/exclusion from the unit. If the parties cannot resolve the question of inclusion/exclusion, the matter shall be presented to the Public Employment Relations Commission (PERC). Either party may petition PERC to review the

position in question to render a written opinion of its findings that shall be binding on the Employer and the Union.

- 1.3 Conflict in Language. There may be times when language in the contract conflicts with language used in other labor and employment tools (e.g. addendums, personnel policies, etc.)
 - 1.3.1 In instances where contract language is in conflict with addenda, addenda take precedence over the Master Agreement.
 - 1.3.2 In instances where contract language is in conflict with City personnel policies, contract language takes precedence over the policies.

2. Nondiscrimination

- 2.1 The Employer and the Union agree that they will not discriminate unfairly against any employee by reason of race, creed, age, color, sex, national origin, religious belief, marital status, mental or physical disability, sexual orientation, active military duty or employees who have been honorably discharged, or any other criteria established by state or federal statutes, rules or regulations.
- 2.2 Whenever words denoting the masculine gender are used in this agreement, they are intended to apply equally to either gender.
- 2.3 There shall be no discrimination or harassment exercised against any employee covered by this agreement because of his or her membership or Union activities.

3. Rights of Management

- 3.1 The management of the City, including but not limited to, the organization, scheduling, staffing, and direction of the workforce, is vested exclusively in the Employer, subject to the terms of this agreement. The City retains the right to determine what complement of employees shall perform the work, including but not limited to, temporary employees, volunteers, supervisory, union employees and/or corrections crews. Examples of management rights include, but are not limited to:
 - 3.1.1 To take whatever action is either necessary or advisable to determine, manage and fulfill the mission of the organization;
 - 3.1.2 To determine the number of employees to be employed;
 - 3.1.3 To hire employees, determine their qualifications and assign and direct their work;
 - 3.1.4 To evaluate employees' performance;

- 3.1.5 To set the standards of productivity, and the services to be provided;
 - 3.1.6 To control and regulate the use of facilities, equipment, and other property of the Employer;
 - 3.1.7 To determine the number, location and operation of departments, divisions, and all other units of the Employer;
 - 3.1.8 Determine the methods, processes and means of providing City services;
 - 3.1.9 Appoint and/or lateral transfer the assignment of employees to specific jobs within their job classification or title.
- 3.2 The Employer has the right to introduce any and all new, improved and automated methods or equipment to improve efficiency and to reduce costs and assign employees within the bargaining unit in accordance with such improvements and cost reduction methods. All matters not specifically and expressly covered or treated by the language of this agreement may be administered for its duration by the Employer in accordance with such policies or procedures as the Employer, from time to time, may determine. This article recognizes an employee's right to use the grievance procedures set forth in article 21 below.

4. Union Security

- 4.1 Rights of Bargaining Unit Employees: Subject to the provisions of this Article and in compliance with federal and state law, it shall be a condition of employment that all City employees covered by this Agreement shall become and remain members of the Union in good standing. There shall be no discrimination exercised against any employee covered by the Agreement because of his or her membership of Union activities. All future employees will be expected to join the Union and pay dues after thirty (30) days of employment.
- 4.2 The Employer agrees to deduct twice a month Union membership dues from the pay of those employees who have requested, in writing, on dues deduction authorization forms provided to the employer by the union, that such deductions be made. The amounts to be deducted will be certified by the Washington State Council of City and County Employees, and the aggregate deduction of all Union members shall be remitted to the Everett, Washington office of Council 2 twice a month.
- 4.3 In the event an employee member of the Union fails to maintain their membership in the Union in good standing therein by the regular payment of dues, the Union will notify the Employer in writing, through Human Resources (HR) of such employee's delinquency. The Employer agrees to give notice to the employee

within five (5) working days that his/her employment status with the Employer is in jeopardy and that failure to meet his/her membership obligation within thirty (30) calendar days from the date such notice is received will result in termination.

- 4.4 Appointment to Excluded Positions: Deductions for Union dues shall cease beginning with the pay period following an employee's regular appointment to a position which is excluded from the bargaining unit.
- 4.5 Defense and Indemnification of the City: The Union agrees that it will indemnify, defend and hold the City harmless from all suits, actions, proceedings or claims against the City or persons acting on behalf of the City, whether for damages, compensation, reinstatement, or any combination thereof, arising out of application of this Article. In the event any decision is rendered by the highest court having jurisdiction that any portion of this Article is invalid and/or that reimbursements must be made to any employees affected, the Union shall be solely responsible for such reimbursements.
- 4.6 Listing of New and Terminated Employees: The Employer agrees to notify the Union of new hires within the first thirty (30) days of employment:
 - a. By the 10th of the following month, a listing of bargaining unit employees hired, promoted or terminated during the previous month. Such listing shall contain the names of the employees, along with their job classification, and department.
 - b. At the Union's request and up to two (2) times a year the employer will provide a listing of bargaining unit members, their department/section, classification, base pay, fulltime/part-time status and number of scheduled hours, city seniority date, and classification seniority date.
 - c. At the Union's request and up to two (2) times a year the employer will provide a listing of all non-represented employees, their classification and department.

5. Union Representatives and Union Activity

- 5.1 The Union shall inform the Employer in writing of the names of its officers, business representatives and stewards who are accredited to represent the Union, which information shall be kept up-to-date at all times. Only persons so designated will be accepted by the Employer as representatives of the Union.
- 5.2 Union representatives may, after receiving permission from the supervisor, visit the work location of employees covered by this agreement, for the purpose of administering provisions of the agreement related to grievance processing, disciplinary action and posting of Union notices on City provided bulletin boards.

5.3 Solicitation of Union membership or collection or checking of dues will not be conducted during working hours other than as follows:

1. Union representatives are allowed access to new employees at an agreed upon time by the City and Union, for purposes of informing the employee about the exclusive bargaining representative within the first ninety (90) days of the employee's start date; and
2. Union representatives shall have access to new employees once for new employee orientation for no more than 30 minutes; and
3. Access shall occur during the employee's regular working hours at the employee's regular worksite, unless otherwise agreed.

The Employer agrees not to discriminate against any member of the Union for his or her activity in behalf of or membership in the Union, provided such activity is not carried on during working hours, except as expressly provided in this agreement.

5.4 Employee officers of the Union or stewards shall be allowed reasonable time away from their work assignment for the purposes of meetings with the City for collective bargaining, grievances or disciplinary hearings or such other legitimate activities as are mutually agreed upon between the Union and the City. City employees participating in such meetings or activities will be allowed to do so without loss of pay if scheduled during said employee's regularly scheduled work time. If meetings or activities go beyond the regularly scheduled work time, then the employees shall be on their own time not paid by the City.

For the purposes of attendance at the bargaining table, not more than two (2) on duty employees will be present from Operations, not more than one (1) on duty employee will be present from the City Attorney's Office, and not more than one (1) on duty employee will be present from the Recreation Division, for a total of four (4) when bargaining the master agreement.

For the purposes of bargaining the addendums, not more than four (4) on duty employees may be present, and of those four (4), no more than two (2) may be from one department (e.g. Recreation addendum, no more than two on-duty Recreation employees) will be present.

5.4.1 Employee Union representatives shall request permission from their immediate manager for time away from their work assignment. Such request shall be granted provided the time does not unreasonably detract from their work performance and is in compliance with the above requirements as to the nature of the activity. Time away from their work assignment to act in the role of Union representative shall be coded on their timesheet as "Union Leave."

- 5.4.2 Employee Union representatives and affected employees shall be allowed time away from their work assignment for meetings with the City. A reasonable amount of prep and debrief time necessary for these meetings shall be allowed.
- 5.5 City work hours shall not be used by employees or the business representatives for the conduct of Union business or the promotion of Union affairs other than stated above.
- 5.6 The City shall provide bulletin board space for Union notices in a conspicuous location where workers frequent regularly in each work area.
- 5.7 Union Business Unpaid Leave: Shop Stewards and Union Officers are eligible for Union Business Unpaid Leave, provided the City grants such requests. Written requests for such leave shall be given to the affected employee's immediate supervisor and to the Department Director of his/her designee. Leave for a single day activity must be requested at least five (5) working days in advance, and leave for multiple day activities should be requested as far in advance as possible, but must be requested at least ten (10) working days in advance. Union Business Unpaid Leave may be granted for not more than six (6) months. The number of officers or stewards authorized for unpaid leave will vary depending on the length of the leave requested and the impact of leave on staffing levels. The Union will make every effort to avoid disruptions of work.

Leave addressed in this section would pertain to activities such as contract administration, including covering for union staff replacement, attending training conferences such as arbitration/grievance training, and preparing for negotiations; performing Officers/Delegates duties including attending AFSCME International Convention, Council 2 Convention, AFL-CIO Convention, other conferences such as the Women's Convention, or appointment to AFSCME or other Union board seats or committees; and other mutually agreed activities.

Time away from an employee's work assignment to act in these roles shall be approved by the appropriate manager and coded on his/her timesheet accordingly.

- 5.8 Use of City telephones or computers related to Union business
- a. City telephones or computers is allowed subject to the following:
 - 1. When such use is de minimis and incidental, such as arranging a meeting with a Union Representative.
 - 2. For the purpose of conducting an investigation of a grievance, such as individual inquiries to co-workers.
 - 3. For the purpose of interacting with the City's representatives concerning Union-City business, such as setting dates for City-Union meetings, making inquiries regarding grievances, etc.

- b. The uses cited in “Subsection a” above may continue only to the extent that they are not an additional cost to the City. The content of any and all communications using the City computer system is not privileged and may be subject to City review.

6. Strikes, Work Stoppages and Work Slowdowns

- 6.1 The Employer and the Union’s signatory to this agreement agree that the public interest requires the efficient and uninterrupted performance of all city services and to this end pledge their best efforts to avoid or eliminate any conduct contrary to this objective. During the term of this agreement, the Union and/or the employees covered by this agreement shall not cause or engage in any work stoppage, strikes, slowdown or other interference with Employer functions, nor shall the city institute a lockout.
- 6.2 In the event that a strike, boycott, slowdown, mass sick call, work stoppage or other interruption of work occurs during the life of this agreement, the Employer shall notify the Union of the existence of such activity and request information from the Union as to whether or not the activity has been authorized. The Union, after immediately responding to the Employer’s request, will then proceed to make every reasonable effort to terminate the work interruption activity and induce the employees concerned to return to work so that service to the citizens of the City of Vancouver will not be affected. Employees shall not earn any benefits or wages whatsoever while they are engaged in such actions. In addition, employees who engage in or encourage such actions shall be subject to discipline, up to and including discharge.

7. Identification of Jobs

- 7.1 Job Classifications. Job classifications shall be defined by the current class specification for each of the job class titles listed in Appendix A.
- 7.2 Work Assignment. The Employer shall have the sole responsibility for making work assignments. In the event of conflicting assignments from management representatives, the employee shall have the right to seek clarification from the directing management representative. The employee shall not be disciplined for following management directives.
- 7.3 Market Comparables. The City and Union agree to discuss market comparables as they relate to classification studies.
- 7.4 Reclassifications. A reclassification review is an analysis of an employee’s duties and responsibilities to determine whether he or she is in the correct classification and salary range. Individual employees or management may initiate a

reclassification review by submitting a request to Human Resources. Human Resources may also initiate studies of positions or groups of positions. When a reclassification is requested, the Employer shall conduct the classification review.

If reasonable and practical, the Employer will assign the positions to an existing class which better describes the duties assigned to the job. If there is no appropriate existing job classification, the Employer shall establish a new job classification. If the incumbent in the position is qualified for the revised job classification, he/she shall be placed in the new classification at the nearest step providing an increase. An incumbent who is not qualified for the new classification shall maintain his or her current range and continue to receive any step increases that are due.

- 7.5 New Classifications. A new classification may result when a position no longer corresponds to an existing City classification or when a new position is created by the City for which no classification exists. The salary range for the new classification shall be established by the Employer so that its salary is competitive. Compensation for new classifications will be determined based on factors including internal equity, market comparables, and other relevant factors.

The salary range shall be submitted to the Union for review and discussion. Within thirty (30) calendar days of City notice, the Union shall notify the City of its agreement or disagreement with the City's provisional salary range for the new classification. If the Union disagrees with the salary range, the parties will engage in negotiations regarding the compensation for the classification. If the parties are unable to mutually agree on the compensation for the classification and mediation does not result in a resolution, such dispute shall be resolved through the arbitration process.

The City shall have the right to employ persons at its provisional salary range during the term of negotiations, subject to full retroactive payment to all affected employees upon the conclusion of negotiations or arbitration.

- 7.6 Notification to the Union. If a new classification is established by the City, a notification consisting of the job specification will be provided in writing to the Union.
- 7.7 Acting or Out-Of-Class Assignments. When acting or out-of-class appointments are made to higher paying positions, preference shall be given on a rotation basis to qualified employees within the division. The rotation list shall be by seniority. Employees must have one (1) year of service prior to consideration for placement on the rotation list. When the most senior employee has been given an out-of-class appointment, the next appointment shall be given to the next lower person on the list. Employees on the list have the option of refusing the out-of-class assignment.

8. Posting of Jobs

- 8.1 It is the desire and intent of the Employer to fill job vacancies from qualified applicants within the city before hiring new employees, providing the employees who apply have the required qualifications for the particular job.
- 8.2 Vacant positions will be filled from employment lists established by Human Resources except when an alternate procedure is allowed by city ordinance in the case of entry level positions and flexibly staffed positions.

A flexibly staffed position is one which may be filled at the entry (I) level by an employee who may be promoted to the full working (II) level on the basis of successful performance at the entry level.

Placement on an employee list will be on the basis of examination of candidates' qualifications. Employees shall be allowed paid time off from their work schedule to participate in interviews for in-house positions. When candidates are to be examined for placement on an employment list, the City will post a notice of the examination and accept applications for a minimum of five (5) working days. The five (5) working days will overlap two consecutive weeks. The notice of examination will be posted for at least two (2) days of each consecutive week. For example, a notice posted on Wednesday will close on Tuesday of the following week.

The employment list will be effective for six (6) months. Such notices shall be posted at various city work sites. Employees may decline consideration for appointment to a vacant position and remain on the employment list in the same rank or position.

- 8.3 Vacant positions may be posted on a simultaneous or internal/external basis, based on the following guidelines:
 - 8.3.1 All applications will be collected directly by the Human Resources Department.
 - 8.3.2 The Employer shall first view internal applications.
 - 8.3.3 If the Employer determines that no internal candidates meet the qualifications or staffing needs as stated on the job announcement, the Employer may consider the external applicants in its recruitment process.
- 8.4 Regular Appointments – When regular appointments are made, current employees shall be given preference by their seniority if their qualifications are equal or superior to those of other applicants.

9. Probation

- 9.1 A newly hired or rehired employee is subject to a six-month probationary period. The probationary period for new employees may be extended, with notification to the Union, to three (3) additional months. Upon Union approval an additional three (3) month extension may be granted. The Employer may discipline or discharge any newly hired or rehired employee at any time during the probationary period, with or without cause, and such discipline or discharge shall not be subject to appeal.
- 9.2 Promotions and voluntary demotions are subject to a six-month probationary period. The probationary period for a promotion or voluntary demotion may be extended, with notification to the Union, to a maximum of six (6) additional months. In the event an employee does not successfully complete a promotion/demotion probationary period, the employee will be assigned to the employee's original position (if available or vacant) or to another vacant position for which he/she is qualified in the same class as, and at the same salary level as, the employee's original position. An employee returning to the position they held prior to the promotion or voluntary demotion will not serve another probationary period. If the original position is not available, and no other vacant position is available meeting the applicable criteria in this Article, the employee will be placed on a reinstatement list for their original position or classification for twenty four (24) months. Nothing in this section shall restrict the rights of the Employer under Article 22, below.
- 9.3 An employee who is transferred into a job within the same classification or takes a lateral transfer to a different classification within the same pay grade, may serve a six (6)-month probationary period, if the job is significantly different than their previous job. In the event an employee does not successfully complete a transfer probationary period, the employee will be assigned to the employee's original position (if vacant) or to another vacant position for which he/she is qualified in the same class, and at the same salary level as, the employee's original position. An employee returning to the position they held prior to the transfer will not serve another probationary period. If the original position is not available and no other vacant position is available, meeting the criteria in this Article, the employee will be placed on a reinstatement list for their original position or classification for twenty-four (24) months. Nothing in this section shall restrict the rights of the Employer under Article 22, below.
- 9.4 Nothing in this Article shall restrict an employee's entitlement to applicable provisions impacting wages and benefits.

10. Work Week, Hours of Work, Shifts

10.1 The work week is defined as the period between 12:01 a.m., Sunday through 12:00 midnight the following Saturday, unless otherwise determined for specific employees.

10.2 Work Schedule

The normal assigned work schedule for full-time, non-exempt staff shall be five (5) consecutive days of eight (8) consecutive hours, excluding lunch periods, followed by two (2) days of rest; not to exceed forty (40) hours of work in the work week. It is understood that the five (5) consecutive days does not imply a Monday through Friday schedule. Other work schedules may be determined by mutual agreement of the Union and the Employer.

10.3 Work Shift

Short term, temporary shift reassignments may be made when the Employer determines that an emergency exists. Under those circumstances, the Employer shall give the employee a minimum of four (4) hours' notice prior to the start of the new shift. If such notice is less than four (4) hours, the Employer shall pay the employee according to call-back pay provisions of 11.5 of this agreement.

10.3.1 An emergency is defined as a natural event or unexpected circumstance which necessitates the Employer to change schedules on short notice to address essential operational or service needs on an immediate basis.

10.3.2 Normal shift starting times shall begin within the following time frames:

First shift - 7:00 p.m. to 4:59 a.m. (graveyard)

Second shift - 5:00 a.m. to 11:59 a.m. (day shift)

Third shift - 12:00 noon to 6:59 p.m. (swing shift)

Regular assignments to openings on shifts will be made based on seniority when the employee meets the qualifications of the new shift and the Employer's work needs. A regular assignment is one with no end date or one which is expected to last over thirty days. If the most senior employees decline then a less senior employee may be assigned.

10.4 Rest Periods

Each employee shall be given a 20 minute paid rest period in the first half of the working shift and a 20 minute paid rest period in the second half of the working shift, and an unpaid lunch period during the shift. Such periods begin when the employee leaves the work site and ends upon his/her return to the work site.

10.5 Shift Assignments

From time to time, work schedules may be temporarily changed to fulfill business needs. These changes may be for a specific period of time, or may be only for a day.

10.5.1 In the instance where an employee is temporarily moved from a 4/10 schedule to a 5/8 schedule, it would involve transferring an employee from one period of consecutive days to another. Such change will not be subject to provisions for premium pay on the first, second and third days, or the fourth day in the case of a five (5) day work schedule; provided that the following criteria are met:

- a. Any time a work schedule is changed, it will consist of consecutive days of work.
- b. Employees will be notified of the change at least twenty-four (24) hours in advance of the new work schedule (and scheduled overtime).
- c. The work schedule change shall be of a temporary nature not to exceed thirty (30) days.

10.5.2 In the instance where an employee's start time is adjusted to accommodate a specific business need, employees will be notified at least twenty-four (24) hours in advance of the changed start time. Any notice less than twenty-four (24) hours before the changed start time would be paid under Article 11.6

10.5.3 Employees may request work schedule changes, but the City shall assume no obligation for premium pay on the initial first, second, and third days, or the fourth day in the case of a five (5) day work schedule of the new shift.

10.5.4 A work schedule differential of \$4.00 per hour shall apply to regular work schedules that include a Saturday or Sunday.

11. Rates of Pay

11.1 Wages

Wages will be set as outlined in Appendix "A"

As salary adjustments occur, they shall be calculated from step 1 of range 1.

Upon ratification of the 2018-2020 contract, employees who were active AFSCME members and eligible to vote on the ratification of the 2018-2020 AFSCME collective bargaining agreement will receive a one-time payment of \$600.00 (gross), prorated based on FTE status (e.g. a .75 FTE will receive \$450).

Effective January 1, 2018:

Salary schedules for covered classifications will be adjusted by 2.0%.

Effective January 1, 2019:

Salary schedules for covered classifications will be adjusted by 2.0%

Effective January 1, 2020:

Salary schedules for covered classifications will be adjusted by 2.0%

11.1.1 Pay Periods

The pay periods and pay dates will be as follows:

Pay Period	Pay Date
1 st through 15 th	25 th
16 th through end of month	10 th

Employees will be paid a monthly salary which shall be split equally between the two (2) pay periods. Timesheets submitted in error will be corrected on the following pay check.

11.2 Salary Step Plan

11.2.1 Newly Hired or Rehired Employees

Employees will move through the defined salary steps on an annual basis, based on adjusted service date.

11.2.2 Promoted Employees

At the time of promotion, employees will move to the step in the range of the new class which results in an increase of at least 5%. Upon successful completion of a promotional probationary period, the employee's salary shall then be increased to the next step of the new range and annually thereafter up to the top of the range. In no event shall a promoted employee's salary be less than the starting pay of the salary range for the new class, nor in excess of the highest step of the regular salary range for the new class.

11.2.3 Demoted Employees

Employees who voluntarily demote (defined as voluntarily applying for and accepting a position in a lower pay range) will be placed in the appropriate pay range for the new classification that results in the least amount of pay reduction, but not above the top of the new range. If an employee is not at the top step, their next step date will be one-year from the demotion date.

For example, an employee is currently at step 5 and is eligible for step 6 on November 1st, but they voluntarily demote to a new position on August 1st. Their next step date will be reset to one year later, August 1st and each August 1st thereafter until reaching the top step.

11.2.4 Laterally Transferred Employees

Employees who voluntarily take a lateral transfer (defined as voluntarily applying for and accepting a position in the same pay range) will remain at their same step. If an employee is not at the top step, they will retain their next step date.

For example, an employee is currently at step 3 and is eligible for step 4 on November 1st, but they laterally transfer to a new position on August 1st. They will continue to be eligible for their step increase on November 1st and each November 1st thereafter until reaching the top step.

11.2.5 Flexibly Staffed Positions

Flexibly staffed positions are classifications that allow the City to hire individuals who lack one of the required qualifications (such as CDL) at a lower level, and then give them the time to obtain the needed requirement. Upon attainment of the needed requirement, the individual's position is moved to the higher classification. An example is the Grounds Maintenance Specialist I/II classification. At the time the position is moved to the higher classification, the employee will move to the step in the range of the higher classification which results in an increase of at least 5%. The employee's next eligibility for a step increase is one year from that date and annually thereafter up to the top of the new range.

- 11.3 The hourly rate for a full time employee will be his/her monthly base rate multiplied by twelve (12) months and divided by 2,080 hours. This rate multiplied by eight (8) hours (or ten (10) hours, if applicable) will be the daily base rate; multiplied by forty (40) hours will be the weekly base rate; and multiplied by 173.3 hours will be the monthly base rate. For purposes of overtime calculations only, the employee's hourly base rate shall be calculated using all compensation required by FLSA.

Hourly rates for part time employees will be prorated based on budgeted or assigned FTE percentage.

11.4 [RESERVED]

11.5 *Callback Pay*

Employees who have completed their regular shift, are on the way home, or at home, and are required to work other than a continuation of their shift, and is not scheduled for overtime (as defined in (11.6.6), shall be paid at double their base rate of pay for hours worked. Any call-back pay shall be for a minimum of two (2) hours, during which time the Employer may provide and require work of the employee called back. This article does not apply to Recreation Coordinator C's and D's.

11.5.1 Overtime and Callback Time

All scheduled overtime (as defined in 11.6.6) and/or call back time shall be offered on a seniority basis by Department, starting with the most senior qualified person. Seniority within the workgroup is defined as length of employment with the City . At the Operations Center, when this departmental seniority list is exhausted, the AFSCME Seniority list will then be used. The most senior employees have the option as to placement on the call out list. Seniority for the AFSCME List is defined as length of employment with the city. Exceptions to offering scheduled overtime on a seniority basis may be made when unique qualifications are required to staff the event such as the Women in Trades or Diversity Job Fair. The City will notify the Union in advance of scheduling such overtime.

In workgroups who have an employee receiving pager/cell phone standby pay per Article 11.5.4, the initial call will go to the employee carrying the pager/cell phone who will be responsible for the call. Call back pay shall be paid in accordance with Article 11.5 and overtime shall be paid in accordance with Article 11.6. Unanticipated and unscheduled overtime which extends beyond the end of a shift for the crew working on a specific project will be offered first to the appropriate and qualified Union member(s) at the site working on the project at the end of the shift.

Temporary or seasonal workers will not be allowed to work scheduled overtime until regular full or part time employees within that work unit have had the opportunity to work the overtime. The Employer will make a good faith effort to notify regular employees of overtime opportunities before such work is offered to temporary workers. This will not preclude temporary or seasonal workers from working overtime which extends beyond the end of their shift or emergency situations.

11.5.2 Telephone Calls at Home After Hours

Employees who are required by the Employer to answer work-related questions by telephone when they are not at work shall be paid for time actually spent on the telephone at the rate of one-and-one-half (1 ½) their normal base rate calculated to the nearest quarter hour, with a quarter-hour minimum.

11.5.3 Computer Use at Home After Hours

Employees who are required by the Employer to respond to work-related questions by computer when they are not at work shall be paid for time actually spent on the computer at the rate of one-and-one-half (1 ½) their normal base rate calculated to the nearest quarter hour, with a one hour minimum.

11.5.4 Pager/Cell Phone Pay

If the Employer requires an employee to carry a pager or cell phone in order to respond to off duty call-outs, the employee carrying the pager or cell phone while off duty shall be compensated as outlined below. The employee on standby must be fit for duty and able to reach the assigned duty station in forty (40) minutes. This does not apply to the Operations' Technical Rescue Team which is covered by an existing Memorandum of Understanding.

Effective 1-1-15	\$150 per week	\$21.43 per day
Effective 7-1-15	\$230 per week	\$32.86 per day

11.6 *Overtime Compensation*

The Employer will attempt to meet its overtime requirements on a voluntary basis among the employees and in the event there are insufficient volunteers to meet the requirements, the Employer may require the necessary employees to work starting with the least senior qualified employee.

- 11.6.1 Overtime compensation will start anytime an employee is required to work beyond the end of his/her shift (typically eight (8) hours or ten (10) hours per shift) and will be compensated to the nearest quarter hour, at the rate of time and one-half (1/2) for the first eight (8) hours of overtime and thereafter at double time. Employees shall have the option to flex their schedule within their defined work week, without incurring overtime, as long as it is mutually agreed upon in advance.

- 11.6.2 Any employee required to work on his/her first day of rest, or his/her first and second day of rest in the case of employees who have three (3) consecutive days of rest, shall be compensated at his/her base rate plus one-half of his/her base rate or time and one-half (1/2).
- 11.6.3 Any employee required to work on his/her second day of rest, or his/her third day of rest in the case of employees who have three (3) consecutive days of rest, shall be compensated at his/her base rate plus his/her base rate (double time) for the first eight (8) hours of work, and for any hours worked over eight shall be compensated and his/her base rate plus time and one-half (2 ½) times). If the employee voluntarily chooses to work on these day(s) of rest, the employee shall be compensated as outlined in 11.6.2, above.
- 11.6.4 All overtime compensation shall be paid in compliance with the requirements of the Federal FLSA and applicable Washington State laws.
- 11.6.5 Employees may accrue compensatory time off in lieu of overtime compensation.
- 11.6.5.1 The decision to grant comp time as an alternative to paid overtime shall be at the Employer's discretion.
- 11.6.5.2 Compensatory time off shall be accumulated at the same rate as overtime compensation would have otherwise been paid (i.e., time and one-half generally, except for work on the employee's second day of rest, or third day of rest for employees with three (3) consecutive days of rest).
- 11.6.5.3 The maximum accrual shall be eighty (80) hours.
- 11.6.5.4 Employees will be allowed to use accrued compensatory time off by mutual agreement with their supervisor, and subject to any restrictions for such use established under the Fair Labor Standards Act (FLSA).
- 11.6.5.5 In the event an employee is affected by layoff from their regular position the employer will payout the balance of the Employee's compensatory time balance at the employee's rate of pay at the time of layoff.
- 11.6.6 **Scheduled Overtime (including meeting contractors)**
Scheduled overtime is anything scheduled before the end of the normal work shift or if scheduling on weekends or after normal shift hours, there shall be four (4) hours' notice to the supervisor or designee scheduling the work, before the end of the normal work shift. Any time scheduled under this article shall be paid at a minimum of two (2) hours overtime

at a rate of one and-one-half (1 ½) times their normal pay, during which time the Employer may provide and require work of the employee.

11.7 *Shift Differential*

Any employee whose regularly scheduled shift is the third shift (swing shift) as defined in 10.3.2 shall be paid a shift differential of one dollar and seventy-five cents (\$1.75) per hour for hours worked; any employee whose regularly scheduled shift is the first shift (graveyard) as defined in 10.3.2 shall be paid a shift differential of two dollars (\$2.00) per hour for hours worked. For purposes of shift differential payment, regularly scheduled includes scheduled overtime, but does not include call back or extension of shift overtime. Requested assignments made to accommodate an employee's personal situation and shifts picked up on overtime do not qualify for shift differential.

11.8 *Working Out-of-Class*

11.8.1 An employee who is temporarily assigned by management, in writing, to perform the principle (or full range) of the duties and responsibilities of a higher level position, without significant supervision, shall be paid either at a rate 5% above his/her current rate of pay (not to exceed the top of the range for the out-of-class assignment), or at the entry rate of the higher job class, whichever is greater.

11.8.1.1 An employee must be assigned for a period of three (3) or more consecutive work days to receive out-of-class pay. The out-of-class pay shall be paid beginning with the first hour of the assignment.

11.8.2 The same employee shall not be assigned to the higher level duties for more than six (6) consecutive months unless specifically approved by the City Manager for extenuating circumstances. The Union will be given notice when management anticipates that an employee will be performing the principal duties of a higher classification for a period of more than 30 days.

11.8.3 The out-of-class rate of pay shall apply for that time actually worked in the higher class. Periods of paid leave during the out-of-class assignment shall be compensated at the employee's normal rate of pay. Following a paid leave, the out-of-class pay shall resume on the first day returned, provided that the leave is for not more than fifteen (15) consecutive working days and the employee returns to the out-of-class assignment on the first day returned.

11.8.4 A position may be career developed up to a maximum of one (1) year.

- 11.9 License Fees: The Employer will pay all fees for certifications required by the City, including bonding and notary public licenses and required associated supplies (Notary Public Stamp, etc.)

12. Leave Benefits

12.1 *Paid Time Off (PTO)*

- 12.1.1 Employees shall accrue paid time off (PTO) in accordance with the schedule in Appendix B, to be used for vacation, illness or personal business.

Part-time employees assigned to a 0.50-0.90 FTE position will accrue PTO hours on a pro-rated basis to a pro-rated maximum.

Bereavement leave and military leave are separate categories as specified in 12.4 and 12.5 of this article, below.

- 12.1.2 Employees may begin using accrued PTO hours as soon as the hours are earned in said bank. PTO hours accrued in a pay period cannot be used in the same pay period in which time is earned, i.e. PTO hours accrued in the 1st through the 15th pay period cannot be used until the 16th through the end of the month pay period and so forth.

An employee shall be paid for all earned and accrued PTO hours, as outlined in Appendix B, at the employee's current rate of pay when he/she terminates employment, up to the number of hours denoted in Appendix B as "Maximum amount of payout at separation" for the applicable years of service. All leave time may be used in a minimum of 15-minute segments.

- 12.1.3 Guidelines on the scheduling of PTO are outlined in City Policy, and guidelines on the frequency and use of unscheduled PTO time will be established within individual divisions or departments.

12.2 *Grandfathered Sick Leave Cash Out*

Any employee hired before January 1, 1980, and retiring from the Employer with a bank of grandfathered sick leave, shall be paid a sum equal to 50 percent (50%) of his/her accrued and unused grandfathered sick leave.

12.3 *Paid Leave while on FMLA Leave*

If an employee is on authorized leave which qualifies as protected under applicable State and Federal leave laws, the employee shall use existing PTO, grandfathered sick leave, and/or compensatory time, with the choice of which category to draw on first at the employee's option.

12.4 *Bereavement Leave*

Employees are afforded necessary time, up to forty (40) hours (pro-rated based on FTE) of bereavement leave, when there is a death in an employee's immediate family.

Immediate family is defined as spouse, domestic partner, child, mother, father, brother, sister or step family, aunt, uncle, niece or nephew, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandparents and grandchildren, and grandparents and grandchildren of the spouse or member of the employee's household. It is understood that the policy extends to similar members of a domestic partner's family as detailed above.

The City reserves the right to require documentation of the death/or any other time taken related to a death.

If an employee is on approved leave of absence at the time of a death, they will be eligible for bereavement benefits if they are receiving at least 50% of their normal semi-monthly compensation from the City. Otherwise, the employee is not eligible for bereavement leave benefits.

Any observed holiday occurring during bereavement leave shall be paid as a holiday.

12.5 *Military Leave*

The Employer abides by the provisions of the laws of the State of Washington, RCW 38.40.060 and the Federal USERRA laws which stipulates that employees who are members of the National Guard or Federal Reserve Military Units are entitled to be absent from their duties for a period of up to twenty-one (21) days with pay during each military calendar year (October 1 through September 30) while engaged in the performance of ordered military duty and while going to or from such duty.

During periods of military conflict, an employee who is married to a military member of the US Armed Forces, National Guard or Reserves will be granted up to fifteen (15) days of unpaid leave before their deployment. Employees are eligible for this leave per deployment. The spouse must provide the Employer a copy of the member's orders.

12.6 *Family Leave – FMLA*

Under the terms of the Family and Medical Leave Act of 1993 (FMLA) and the state law, upon the completion of one (1) year of employment, any employee who has worked at least one thousand two hundred fifty (1,250) hours during the prior twelve (12) calendar months shall be entitled to up to twelve (12) weeks of leave in accordance with FMLA and based on a rolling twelve (12) month period, for specified family and medical reasons as required by FMLA, and the Washington Family Care Act.

12.7 *Pregnancy/Childbirth Disability Leave*

When required by Washington State law, the Employer will grant a leave of absence for the period of temporary disability because of pregnancy or childbirth.

13. Holidays

- 13.1 The following days are recognized as legal paid holidays for which time off are to be granted:

New Year's Day -- January 1
Martin Luther King's Birthday - Third Monday in January
President's Day -- Third Monday in February
Memorial Day -- Last Monday in May
Independence Day -- July 4
Labor Day -- First Monday in September
Veterans Day - November 11
Thanksgiving Day -- Fourth Thursday in November
The Day after Thanksgiving Day – Fourth Friday in November
Christmas Day -- December 25

- 13.2 Any of the above holidays which fall on a calendar Saturday shall be celebrated on the previous Friday; any of the above holidays which fall on a calendar Sunday shall be celebrated on the following Monday.

- 13.3 Any employee for whom a holiday falls on his/her normal day off shall be granted eight (8) hours into a holiday bank to use as time off in the future, after mutually agreed upon by the supervisor and the employee.

13.3.1 All accrued holiday bank time shall automatically be paid out each year, to the employee on the employee's January 10th pay check.

- 13.4 Any employee who is on medically authorized sick leave when a holiday occurs will receive eight (8) hours pay for that holiday and will not have his/her sick leave accrual charged.
- 13.5 Any employee who works on a city holiday, or its equivalent for shift personnel, shall be paid double his/her base rate for hours worked, plus pay for the holiday. Hours worked beyond eight (8) on the holiday shall be compensated at triple the employee's regular rate.

14. Employee Insurance

- 14.1 Employees covered by this agreement will be provided insurance benefits as follows:
- 14.2 Life Insurance Each employee shall receive a life insurance policy in an amount equal to 100% of the employee's annual salary, rounded to the next higher multiple of \$1,000. In addition, employees shall have the option of choosing dependent and/or additional life insurance on a payroll deduction basis.
- 14.3 Long Term Disability Regular full-time and half-time bargaining unit employees will be covered by a city-paid group long-term disability insurance policy.
- 14.4 Health Insurance
- A. Employees and their eligible dependents will have the option of selecting any combination of medical and dental coverage from the following:
 - a. Medical
 - i. HMO Plan
 - ii. HMO Plan – CDHP (Consumer Driven Health Plan)
 - iii. PPO Plan
 - iv. PPO Plan – CDHP (Consumer Driven Health Plan)
 - b. Dental
 - i. PPO Plan
 - ii. HMO Plan
 - B. Consumer Driven Health Plans (CDHP)
 - a. CDHP's will include a Health Savings Account (HSA).
 - i. The City will make a contribution to the Employee's HSA in the following amounts:
 - 1. Employee-only coverage - \$1,500
 - 2. Employee plus one or more dependents - \$3,000
 - b. Employees may also contribute pre-tax dollars to their HSA up to the limits allowed by law.
 - C. Premiums

Beginning January 1, 2018 and for the term of the contract the City contribution will increase up to 5% of any increasing premium costs.

- D. Opt Out Provision In addition, members have an opt-out/cash-back option for eligible employees upon certification of other group coverage.
- E. Flexible Spending Account (FSA)
 - a. For employees enrolled in a non-CDHP plan: Employees will have the option of participating in a FSA for reimbursable medical costs, dependent care costs, or premium sharing costs.
 - b. For employees enrolled in a CDHP plan: Employees will have the option of participating in a FSA for dependent care costs.

14.5 Dental Insurance

The City will pay 100% of the employee and eligible dependent cost for selected dental insurance for the term of this agreement.

- 14.6 All employee premiums will be paid using pre-tax dollars under the City's flexible benefits plan unless an employee notifies Human Resources and elects to waive payment through the flexible benefits plan.
- 14.7 It is understood that the type and level of benefits available from the City's health plan carriers may be changed from time to time by the carrier, and the City shall not have a duty or obligation to negotiate over such changes with the Union. Additionally, the City retains the right to change health plan providers as long as the new plan provides a comparable level of benefits as negotiated in this contract.
- 14.8 Medical and dental insurance premiums for regular part-time employees shall be paid by the Employer in the same portion as detailed in 14.4 above, and pro-rata, based on the employee's budgeted FTE (full-time equivalent).
- 14.9 The Labor-Management Insurance Committee will meet no less than annually to share information on benefits (including, but not limited to health, dental, life and long-term disability insurance). The City may also use this forum to gather feedback, ideas and alternatives to current plan offerings and/or designs as needed.

15. Fitness for Duty

The parties recognize that employees have the responsibility to report to work fit for duty.

- 15.1 To ensure physical and mental fitness, the employee may be required to provide to the Employer a fully completed certification from a medical and/or psychological provider on a City-provided form of the employee's fitness to perform the specific duties of their job or light duty alternative before returning to work.
- 15.2 The Employer also has the right to send employees for medical and/or psychological examinations at the City's expense for additional certification of fitness for duty whenever the Employer reasonably believes that the employee is not fit for duty or may be a danger to themselves or others.
- 15.3 The City shall comply with all applicable medical records confidentiality laws associated with any employee medical information.

16. Retirement Plan

- 16.1 All eligible employees and the Employer shall participate in the Washington Public Employees Retirement System (PERS) to the extent provided for by Washington state law.

17. Training Program

- 17.1 Training shall be scheduled by the Employer. Time spent in training shall be paid in compliance with the requirements of the Federal FLSA and applicable Washington State law. If the employee receives notification of essential certification requirements from the certifying agency, the employee has a responsibility to inform the Employer in a timely manner. City required safety and health trainings are not covered by this employee notification requirement.
- 17.2 Every effort will be made to schedule required training during on-duty time. Personnel may be scheduled and required to attend training outside of their normal shift.
- 17.3 Employees who desire tuition aid for specialized individual training or academic training may submit their request in accordance with City of Vancouver Policies and Procedures.
- 17.4 Any employee required to possess a certification for his/her position shall obtain such certification within the timeline established by the job announcement and/or offer letter, and shall maintain such certification during his/her tenure in such position. Failure to either obtain or maintain required certification(s) may be grounds for actions pursuant to Article 22 of this contract if the Employer has fulfilled their responsibility in accordance with subsections 17.1 and 17.2 above.

18. Clothing, Tools and Safety Equipment

- 18.1 The Employer shall purchase and replace such clothing, uniforms, and other equipment as designated by the department head, and shall make all necessary replacements as the need arises. All uniforms or equipment being replaced shall be returned to the Employer at the time of replacement.
- 18.2 Employees agree to maintain all clothing and equipment in good condition and not subject it to abuse beyond the regular call of duty.

19. Driver's Licenses

- 19.1 The parties recognize that the Federal Highway Administration (FHWA) has established regulations for employees required to have a Commercial Driver's license (CDL).

All employees in applicable positions are expected to obtain and maintain a commercial driver's license with such endorsement as necessary to operate vehicles assigned to their work unit.

Employees new to a position requiring a CDL shall be allowed up to six (6) months to obtain a CDL permit and up to one (1) year to obtain the license. Failure to either obtain or maintain the required CDL may be grounds for discipline up to and including termination of employment.

The City will provide:

- 19.1.1 An opportunity for each employee to develop the skill required to obtain the license.
- 19.1.2 Reimbursement for fees to obtain the license and endorsements, provided that if the employee incurs additional charges because he or she fails any part of the exam, those charges shall be the employee's responsibility.
- 19.1.3 The required medical/physical examination provided that, at the city option, the city may reimburse the employee for a physical examination by a physician of the Employer's choice. An employee wishing to use his or her own physician when the city offers a paid examination with its own physician will not be reimbursed for the examination.
- 19.1.4 Use of a city vehicle to take the practical/driving portion of the examination, on city time, provided that the city may require the employee to demonstrate proficiency in operating the vehicle in a trainee capacity before allowing the employee to use the vehicle in the driving test.

19.1.5 All employees required to maintain a Commercial Drivers' License shall be subject to all rules and regulations issued by the federal government including requirements for drug testing.

19.2 For those employees who must drive vehicles to carry out their job as determined by the Employer, if any employee has his/her driver's license (or CDL for those employees required to have a CDL) revoked or suspended for one hundred twenty (120) days or less, then the Employer will make a reasonable effort to reassign the employee to jobs not requiring driving. If such reassignment is not practical, the employee shall be suspended without pay. The employee may elect to take other appropriate available leave (accrued vacation or compensatory time) in lieu of suspension without pay. If the employee's driver's license (or CDL for those employees required to have CDL) is revoked or suspended for more than one hundred twenty (120) days, then the Employer shall make a reasonable effort to reassign the employee. If such reassignment is not practical, the employee shall be immediately discharged.

If an employee has been discharged from employment with the City for the loss of their required driver's license or CDL and is actively appealing the basis for the loss through the justice system, the City will consider them eligible for appointment to the next available position for which they are qualified if their appeal is successful and their required driver's license or CDL is reinstated within one year from the date of loss. An employee receiving an appointment to a position will return with the seniority and accrual rates that they had at the time they were discharged. Only employees who fit this specific criterion will be given this consideration.

19.3 Notwithstanding the provision of section 19.2 above, the Employer retains the right to pursue actions under Article 22 for inappropriate workplace behavior which results in their driver's license (or CDL for those employees required to have a CDL) being revoked or suspended.

19.4 If an employee in a job which requires a driver's license (or CDL for those employees required to have a CDL) has their license revoked or suspended for medical reasons, the Employer will make a reasonable effort to reassign the employee to duties which do not require a driver's license (or CDL for those employees required to have a CDL) and for which the employee is qualified. The Employer will not create work or a position to accommodate the employee. If the Employer is not able to find existing work to which the employee can be assigned, then the employee may be separated from employment in accordance with public laws, this contract and city policies.

20. Mileage Reimbursement, Parking Rates, and Commute Trip Reduction (CTR)

- 20.1 Mileage Reimbursement – Some jobs may require the use of an individual employee's automobile. In the event this is required by the Employer, it will pay the employee a mileage reimbursement at the rate established by the Internal Revenue Service.
- 20.2 Parking Rates – City employees who work in the downtown area pay for parking in City-owned or -operated lots or on permitted street spaces. The rates below are applicable to those employees who currently work downtown or who will work downtown in the future.

20.2.1 City-Owned or -Operated Lot Rates and On-Street Parking

With respect to all parking options, city employees will be expected to pay the prevailing parking rates.

20.2.3 Payment of Parking Fees

City work locations in the downtown area require employees to pay for parking should they want to park in a City-owned or -operated lot or in a permitted on-street parking space. Employees not currently paying parking fees because of their work location or commuting choice are subject to paying fees if their work location or commuting choice changes to one where parking fees are in effect. Conversely, employees who currently work in the downtown area and pay for parking will not be subject to that requirement should they relocate to an area where parking fees are not charged.

- 20.3 Commute Trip Reduction – The City participates in a Commute Trip Reduction (CTR) program and encourages employees to use alternate modes of transportation to get to and from work. For employees who use alternate modes of transportation for their work commute at least 60% of their scheduled work time (based on mandatory monthly self-reporting), the City will provide:
- a. a taxable cash incentive (\$25) for bicycling, walking, or carpooling to work; or
 - b. 100% of the cost of a bus pass; or
 - c. the option of a vanpool and will pay a variable amount (amount depends on the numbers of participants) to participating employees.

Incentives are currently available to all participating employees, regardless of their current work location.

Because the CTR program is funded at a specific level, should the demand for incentives exceed the annual budget availability, the City may have to reconfigure incentive amounts and participation parameters. Should that situation arise, the City will meet with the Union to discuss proposed changes.

21. Grievance Procedure

21.1 *Definition*

For purposes of this Agreement, the term "grievance" means any dispute between the Employer and the Union or an employee concerning the application or interpretation of the terms of this Agreement. If the grievance involves a disciplinary matter, either the employee or the employer may waive Step 1 of the grievance procedure under 21.2.

21.2 *Procedure*

Notwithstanding the grievance procedure listed below, the Employer and Union agree that it is in their mutual best interest to resolve disputes as early and informally as possible. Employees are encouraged but not required to first meet with their immediate supervisor. Every effort shall be made by both parties to reach an agreeable resolution promptly at each step of the grievance procedure.

Should a grievance be filed, the parties agree the grievance shall be submitted in accordance with the following steps: Any time limits stipulated in the grievance procedure may be extended for stated periods of time by the appropriate parties by mutual agreement in writing.

For each step of the grievance process, a written grievance shall be required to include the following information:

- a. Set forth the section(s) of the agreement allegedly violated and state the specific nature of the violation.
- b. Indicate the date(s) of the incident(s) grieved.
- c. Specify the remedy or solution to the grievance sought by the employee(s).
- d. Identify the grievant and be signed by the grievant.

21.2.1 Step 1: If a grievance is to be advanced under this procedure, the written grievance shall be presented by the employee to his/her immediate management representative (not covered by this Agreement) within ten (10) working days from the date the employee had knowledge or should have had knowledge of the alleged breach or violation of this Agreement.

The management representative (not covered by this Agreement) shall meet with the aggrieved employee and the Union steward within ten (10) working days of the management representative's receipt of the grievance. The parties agree to make every effort to settle the grievance promptly at this stage. Within ten (10) working days after such meeting, the management representative (not covered by this Agreement) shall

mail, email or hand deliver a copy of his/her decision to the aggrieved employee, the Union and the department head.

- 21.2.2 **Step 2:** Should the grievance remain unresolved at Step 1, the Union shall, within ten (10) working days after mailing, emailing or hand delivery of the Step 1 response, deliver an appeal of the Step 1 decision in writing to the department head.

The department head or their designee and management representative (not covered by this Agreement), shall convene a meeting with the aggrieved employee and Union representative within ten (10) working days of receipt of the written appeal. The department head shall make a decision on the matter within ten (10) working days of such meeting. Copies of the written decision shall be mailed, emailed or hand delivered to the aggrieved employee, the Union and the City Manager.

- 21.2.3 **Step 3:** Should the grievance remain unresolved after Step 2, the Union shall, in writing, deliver the appeal of the Step 2 decision to the City Manager or his/her designated representative (with a copy to the department head) within ten (10) working days after mailing, emailing or hand delivering of the decision reached in Step 2. The City Manager or his/her designee shall convene a meeting of the aggrieved, the Union representative, the department head, and other directly involved individuals as determined by the parties to be appropriate, within ten (10) working days of receipt of the written appeal and shall render his/her decision within ten (10) working days of such meeting with copies of the aggrieved employee, the Union and the department head.

- 21.2.4 The Union will attempt to explain to management why the grievance is still unresolved as it moves up the steps towards arbitration, but the explanation will not have merit as to the step advancement.

21.3 *Arbitration*

If the grievance remains unresolved after a decision is rendered in Step 3 above, it may be submitted by the Union to a mutually acceptable arbitrator as hereinafter provided. If the Union wishes to proceed to arbitration, such notice must be provided by the Union to the City Manager within fifteen (15) working days following the Union's receipt of the City Manager's decision as outlined in Step 3.

Should the grievance be submitted to arbitration, the parties shall mutually select a disinterested third party to serve as arbitrator. In the event the Employer and the Union are unable to agree on an arbitrator, the arbitrator shall be selected by the process of alternately striking from a panel of eleven (11) arbitrators from the Pacific Northwest region as furnished by the Public Employment Relations

Commission (PERC) or the Federal Mediation and Conciliation Service (FMCS) or other mutually agreed to similar organization. The Union shall strike the first name. The request for an arbitrator shall state the general nature of the issue. The city and the Union will jointly share the fee for selection and services of an arbitrator. Each party shall pay the fees and expenses of their own attorneys, representatives and witnesses.

The arbitrator shall render a decision as promptly as possible. The arbitrator shall consider and decide only the specific issue(s) submitted in writing by the Employer and/or the Union, and shall have no authority to make a decision on any other issue not so submitted. The arbitrator shall have jurisdiction and authority only to interpret, apply or determine compliance with the specific terms of the agreement and shall not have jurisdiction to add to, detract from, or alter in any way, the provisions of this Agreement.

A decision within the jurisdiction of the arbitrator shall be final and binding upon all parties. The parties shall abide by the award made in connection with any arbitral decision.

21.4 *Group Grievances*

A grievance that involves or affects a significant portion of the employees in the bargaining unit may be introduced by the Union in written form to the department head as set forth in Step 2 of the grievance procedure, and proceed as set forth there in.

21.5 *Time Restriction*

If the grievance is not filed or advanced in accordance with the time limits set forth within the procedure, the grievance shall be considered non-submitted or resolved on the basis of the Employer's last response. A grievance not responded to by the Employer within the prescribed time limits shall be granted, provided that the remedy sought conforms to the provisions of this agreement and applicable laws. The parties may mutually agree to extend the time limits for a given step for a specified period of time. All references to days in this article shall mean "working days" as in a normal work week of Monday through Friday.

22. Employee Discipline and Termination

22.1 The Employer may discipline or discharge any newly hired or rehired employee at any time during the initial probationary period, with or without cause, and such discipline or discharge shall not be subject to appeal.

22.2 The Employer may, in good faith for just cause, take disciplinary action by written reprimand, suspension, transfer, delay of step increase, demotion or discharge.

The degree of discipline administered shall depend on the severity of the infraction. Disciplinary action must be issued within thirty (30) calendar days after the Employer became aware of the offense, unless based on an extended pattern of performance or behavior. The thirty (30) calendar day timeline set forth herein may be extended upon mutual agreement between the Employer and the Union. Written reprimands may be grieved up to the City Manager or their designee, but not arbitration unless and until such time as such written reprimands are relied upon to support subsequent and timely discipline including suspension, transfer, delay of step increase, demotion or discharge.

- 22.3 The Employer shall not take any disciplinary action as defined in this section without giving the employee the right to have a Union representative present. If an employee(s) is requested to attend any meeting for the purpose of investigation, where such investigation may lead to discipline or discharge of that employee, that employee(s) will be informed of their right to have Union representation present before such meeting is to take place. The employee shall be provided a letter setting forth the reason(s) for such action at the time such action is taken or shortly thereafter.
- 22.4 Employees shall be given the opportunity to read and answer all disciplinary letters before placement of such material into their official personnel file maintained by Human Resources and will be requested to sign such letters. Signature thereon shall not be construed as admission of guilt or concurrence with the discipline, but rather an indication that the employee has seen and comprehends the gravity of the disciplinary action.
- 22.5 Copies of written reprimands and other disciplinary letters will be provided to the Union. Copies of written reprimands will be used to indicate trends of behavior which may lead to discipline and/or discharge.
- 22.6 Only management representatives who are not covered by this agreement may discipline employees above a written reprimand.

23. Performance Evaluations

- 23.1 Each employee's job performance shall be reviewed and evaluated at least annually.
- 23.2 Performance evaluations are not disciplinary and are not subject to the grievance procedure.
- 23.3 An employee may append his/her written comments to the performance evaluation report. Employee comments must be attached and submitted with the signed performance evaluation to human resources.

24. Non-Reduction of Wages and Working Conditions

- 24.1 The parties hereto agree that the wages and working conditions in effect and now being paid to and enjoyed by the members of the Union shall not be reduced in view of the provisions of this agreement; provided, nothing in this section shall be construed to limit in any way, the Employer's rights under Article 3., Rights of Management, above, or to make changes in current practices, provided: (1) Advance notice of the change is given to the Union and affected employees, and, (2) Reasonable opportunity is provided to discuss the change with the city.

25. Layoff, Recall, and Bumping

- 25.1 Layoff Procedure – Layoffs or reductions-in-full time equivalent (FTE) positions (including transfers for this purpose and reduction in hours) may be undertaken by the City due to budgetary reductions, organizational restructuring, lack of work, reduction or elimination of funds, material change in duties or organization, reduction in force or workload, or in the interests of economy or efficiency.
- 25.2 Alternatives to Layoff – The City will attempt to avoid layoffs and whenever possible to consider alternatives to layoffs before final decisions are made. At the discretion of the City, these considerations may include:
- 25.2.1 To avoid layoff an employee may transfer to a vacant position, if available. An employee may be eligible for a transfer provided that he/she meets the minimum qualifications for the job.
- 25.2.2 The City shall notify each employee subject to layoff of his/her rights and responsibilities as described in this Article. Such notification shall be reduced to writing and incorporated in each layoff notice the City issues to an employee subject to layoff.
- 25.3 After the City has identified the job classification, division (e.g. Streets, Water, Criminal, Civil), workgroup (e.g. Signals, Water Production) or program area (e.g. Street Lights, Hydrant Flushing, Aquatics, Fitness) being reduced, layoffs and resource reductions will be made in the following order:
- 25.3.1 Temporary or seasonal employees occupying regular classifications, Offender Service Crews, and newly hired probationary employees shall be laid off prior to regular status employees.
- 25.3.2 The order in which employees will be laid off shall be determined based on seniority as defined in 25.7 of this Article.
- 25.3.3 Any exception to this will be mutually agreed to by the Union and City.
- 25.4 When an employee is identified for a layoff or reduction-in-force, he/she shall be permitted to bump into a job or classification which he/she currently holds or has

previously held, provided that the employee meets the minimum qualifications for the job. If the employee is a Building Repair Specialist, the employee shall be permitted to bump into the Facilities Maintenance Specialist II classification provided that the employee meets the minimum qualifications for the job. In doing so, he/she may “bump” the least senior employee in that job or classification within the bargaining unit. Bumping may only occur within the same bargaining unit such as Operations Center, Recreation, or Law.

An employee who has been transferred pursuant to 25.2.1 or bumped into a new position as an alternative to layoff and who fails to perform the functions of the new position during probation will be placed on the reinstatement list. Such employees will only be eligible for reinstatement to the position from which they were originally laid off. Failure to pass probation for reasons other than performing the functions of the new position will result in termination in accordance with Article 22.

- 25.5 Notice to Union – Representatives of the City shall notify the Union within fifteen (15) working days after the City has officially determined that a layoff or reduction-in-FTE will affect any of the Union members. After such notification, the City agrees to meet with the Union, if requested, and to inform the Union of the details of the layoff and provide a current seniority list as well as any other relevant information. This meeting shall occur prior to notifying the employee(s) selected for reduction or elimination.
- 25.6 Notice to Employees – Each employee to be laid off or to have an FTE reduction shall be given at least thirty (30) calendar days’ notice of layoff, with a copy to the Union. Employees who remain may be assigned the additional duties of those lower classified positions that were laid off or reduced. Such a situation will not result in a decrease in pay or downward reclassification.
 - 25.6.1 Once the City had notified the affected employee of layoff and there is an available vacant position or a position for the employee to bump into, if any, he/she must notify Human Resources in writing of his/her intent to accept a vacant position or exercise bumping rights within ten (10) working days of the initial layoff notice. If notification is not received within the allotted time, rights to vacant positions or to bump shall be waived by the employee. The Employee will subsequently be placed on the reinstatement list.
- 25.7 Seniority – Seniority for the purposes of layoff, reduction, recall, and bumping shall be based upon City seniority for all members covered under this Agreement as of September 2, 2009. Thereafter, employees transferring or hired into any one of the bargaining units shall have seniority defined as the employee’s most recent date of hire into their respective bargaining unit. Should the seniority of any two or more employees be equal, the respective seniority rights of such employees

shall be determined by date of application, and if that is the same, the affected employees shall draw lots. Employee seniority shall not be reduced because of unpaid leave protected under state and federal regulations.

25.8 Recall – Employees who have been laid off, or transferred as an alternative to layoff, are eligible for recall for a period of thirty-six (36) months following the date of layoff or reduction in FTE. The names of persons laid off will be placed on one recall list. When a vacancy occurs in the same job classification for which there exists a recall list, the City will fill the vacancy using that list with the understanding that employees must meet the required minimum qualifications for the position to which they would be recalled into. If there is more than one employee on the recall list eligible for a vacancy in a particular job class, the City will use seniority as defined in Article 25.7 to determine who shall be offered recall. Recall notices will be sent by certified mail to the last address reflected in the employee's official personnel file.

25.8.1 When an employee is recalled within thirty-six (36) months to the job or classification from which they were laid off, they will be placed into the same step occupied at the time of the layoff and may serve an additional probationary period, if the job is significantly different than their previous job. Recalled employees will have their accrual rates restored to the same accrual rate as of the date of layoff.

25.8.2 Reinstatement. Employees who have been laid off and are in a recall status may also apply and be considered for job openings outside their job classification prior to or after layoff. Any employee who is offered a job other than the position from which they were laid off within thirty-six (36) months of their layoff will be treated as a new employee and will serve a new probationary period. Employees will also be placed into the salary schedule for the new position consistent with the applicable salary schedule or guidelines. Reinstated employees will have their accrual rates restored to the same accrual rate as of the date of layoff.

25.8.3 Once an employee on the recall list is offered recall, the employee must respond within fourteen (14) calendar days of the date of the notice, unless extended by mutual consent. The employee shall be responsible for notifying the Human Resources Department of any change in their address or telephone number, while on layoff status.

25.8.4 Benefit accrual and service credit will be discontinued while in a layoff status of thirty (30) or more days. However, upon recall or reinstatement, an employee's previous hire date will be maintained, but the employee's service date will be adjusted to deduct the time spent in a layoff status.

25.9 Eligibility for recall/reinstatement ends if:

25.9.1 An employee refuses to accept an offer of recall to a position in the same classification as that from which he/she was laid off.

25.9.2 An employee fails to respond to an offer of recall within fourteen (14) calendar days following the date the offer is mailed.

25.9.3. The employee requests in writing to be removed from the recall list.

25.9.4 The employee resigns or retires.

Definitions of Alternative to Layoff

- A. Transfer (moves laterally) – The movement from one position within a job classification to another position within the same classification or from one position to a position with a different classification in the same pay range. A transferred employee would be placed at the same step in the same range as the position that they transferred from. Terms and conditions of transfers are provided in Article 9.3.
- B. Demotion – The movement from a higher paid job classification to a lower paid job classification. An employee accepting a demotion may serve a probationary period, if the job is significantly different than their previous job, and would be placed at the top step of the lower job classification range or the step in the job classification range that provides the least amount of decrease in pay.

26. Contracting-Out/Out-Sourcing

- 26.1 Should the City contract-out or out-source work which is currently being performed by AFSCME Union employees, the City shall inform AFSCME and shall meet with AFSCME to impact bargain the effects.

27. Conflict of Contract and City Employment Policies

- 27.1 It is agreed that the intention of the parties to this agreement is that this agreement and all working agreements shall be consistent with the City employment policies and that where it is found that the provisions of such an agreement are in conflict with the City employment policies that the language of the agreement shall control.
- 27.2 Employees represented by this contract will be under the City's Employment Policy Manual. It is the intent that departmental rules shall be superseded by the City's Employment Policy Manual. If a situation occurs in which there is a difference between City rules/policies, and those of the department, Human

Resources will meet with the Union and the affected department to reach a mutually agreeable solution.

- 27.3 The City shall provide legal representation to an employee represented by this contract as may be reasonably necessary to defend a claim or lawsuit filed against such employee resulting from any conduct, act or omission of such employee performed or omitted on behalf of the City in his/her capacity as an employee which act or omission is within the scope of his/her service or employment with the City in accordance with the provisions of Vancouver Municipal Code Chapter 2.46.

The City shall inform the employee whether the employee shall be offered a defense. The City shall first provide an opportunity for the employee and the Union to meet in advance with the City Manager so that the employee and/or Union may provide the City Manager with any evidence or argument, whether verbally or in writing, before the City Manager may deny defense and/or indemnification to the employee under Chapter 2.46 VMC. Only the employee, City Manager, Union representative, Union attorney, or City Attorney (or designated legal advisor) may attend the meeting. If the City Manager grants defense and indemnification to the employee under chapter 2.46 VMC, no such meeting shall be required or held.

28. Separability Clause

- 28.1 If an article of this agreement should be held invalid by operation of law or by any tribunal of competent jurisdiction or if compliance with or enforcement of any article should be restrained by such tribunal, the remainder of this agreement shall not be affected thereby and the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement for such article.

29. Termination and Renewal

- 29.1 This agreement and all attachments hereto shall be in full force and effect from January 1, 2018 through December 31, 2020, and shall continue in effect if renewed or extended by mutual agreement.
- 29.2 Not less than one hundred twenty (120) days prior to the end of the contract, either party may notify the other in writing of its desire to terminate or modify the agreement; provided that an earlier commencement may be scheduled by mutual agreement.

30. Labor-Management Committee

- 30.1 An Operations Center-wide Labor-Management Committee currently exists. AFSCME has historically been represented on and participated in its meetings and will continue to do so.

A City Attorney Support Staff Labor-Management Committee also exists and meets to discuss internal labor-management issues specific to that workgroup.

Topics for the agenda will be shared at least one (1) week before the meeting. Issues not covered by the contract, clarification of contract issues, various surveys and committee work related to mandatory bargaining subjects and city employment policies shall be regular agenda items for this committee.

31. Temporary or Seasonal Workers

- 31.1 Temporary or seasonal worker for purposes of this contract shall mean one who is hired to work not more than 1,040 hours in any one specific classification in one specific department in any twelve (12) consecutive month period. Temporary workers will not be used for more than the 1,040 hour period. Exceptions to this policy shall be mutually agreed upon by the Employer and the Union. The Employer will not rotate temporaries through the same regular position(s).
- 31.2 The intended use of temporary or seasonal workers by the Employer is to cover seasonal workloads and to fill unexpected vacancies created by a sudden increased work load, to instruct classes and provide other services that do not require the use of regular staff, and to fill in as a result of termination or disabilities of regular employees. It is acknowledged that there will be exceptions to this policy. Exceptions to this policy shall be mutually agreed upon by the City and the Union.
- 31.3 The Employer will make all records of temporary or seasonal workers, the date they started, and total hours worked, available to the Union upon request.

32. Tobacco Free Work Environment

- 32.1 All city facilities, including city-owned buildings, vehicles, individual employee offices, and offices or other facilities rented or leased by the city will be tobacco free.

33. Contract Amendments

- 33.1 The parties agree that this Agreement may be amended in writing as agreed to by both parties without action of their respective legislative bodies, unless otherwise specified herein, including, but not limited to, amendment by Memorandum of Understanding or Memorandum of Agreement.

Dated this _____ day of _____, 2018.

For the Employer

For the Union

Eric Holmes, City Manager

Larry Clark, Business Agent
AFSCME, 307VC

Lenda Crawford Deputy City Manager

Dave McGrath, President,
AFSCME, 307VC

Kevin Battan, Vice-President,
AFSCME, 307VC

Yvonne Taylor, Executive Board,
AFSCME, 307VC
City Attorney's Office

Approved as to form:

E. Bronson Potter, City Attorney

James Fields, Executive Board
AFSCME, 307VC
Parks and Recreation

Attest:

Natasha Ramras, City Clerk

Appendix A - Classifications and Rates of Pay

Salary Schedule adjusted by 2% effective January 1, 2018

AFSCME 2018 Pay Ranges								
Range Number	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1	\$ 2,856	\$ 2,956	\$ 3,060	\$ 3,167	\$ 3,277	\$ 3,392	\$ 3,510	\$ 3,651
Recreation Coordinator A								
2	\$ 2,927	\$ 3,030	\$ 3,136	\$ 3,245	\$ 3,358	\$ 3,477	\$ 3,599	\$ 3,742
3	\$ 3,001	\$ 3,106	\$ 3,215	\$ 3,327	\$ 3,443	\$ 3,563	\$ 3,688	\$ 3,835
4	\$ 3,075	\$ 3,183	\$ 3,294	\$ 3,409	\$ 3,529	\$ 3,653	\$ 3,780	\$ 3,932
5	\$ 3,151	\$ 3,262	\$ 3,377	\$ 3,495	\$ 3,617	\$ 3,744	\$ 3,874	\$ 4,029
6	\$ 3,231	\$ 3,344	\$ 3,461	\$ 3,583	\$ 3,708	\$ 3,837	\$ 3,972	\$ 4,130
Warehouse Worker								
7	\$ 3,312	\$ 3,428	\$ 3,548	\$ 3,672	\$ 3,801	\$ 3,934	\$ 4,071	\$ 4,234
Legal Secretary								
8	\$ 3,395	\$ 3,513	\$ 3,637	\$ 3,764	\$ 3,895	\$ 4,032	\$ 4,173	\$ 4,340
9	\$ 3,480	\$ 3,602	\$ 3,727	\$ 3,858	\$ 3,992	\$ 4,132	\$ 4,277	\$ 4,449
Warehouse Technician								
10	\$ 3,566	\$ 3,691	\$ 3,820	\$ 3,955	\$ 4,093	\$ 4,237	\$ 4,384	\$ 4,559
Facilities Maintenance Specialist I Maintenance Worker I								
11	\$ 3,656	\$ 3,783	\$ 3,916	\$ 4,052	\$ 4,195	\$ 4,342	\$ 4,493	\$ 4,673
Recreation Coordinator B								
12	\$ 3,748	\$ 3,878	\$ 4,014	\$ 4,154	\$ 4,300	\$ 4,451	\$ 4,606	\$ 4,790
Street Light Technician I								
13	\$ 3,840	\$ 3,975	\$ 4,115	\$ 4,258	\$ 4,407	\$ 4,561	\$ 4,721	\$ 4,911
Maintenance Worker II Utility Locator								
14	\$ 3,937	\$ 4,074	\$ 4,217	\$ 4,364	\$ 4,517	\$ 4,676	\$ 4,839	\$ 5,032

15	\$ 4,035	\$ 4,176	\$ 4,322	\$ 4,474	\$ 4,630	\$ 4,792	\$ 4,960	\$ 5,158
16	\$ 4,136	\$ 4,281	\$ 4,431	\$ 4,585	\$ 4,745	\$ 4,913	\$ 5,084	\$ 5,288
Facilities Maintenance Specialist II Water System Operator								
Water Quality Assistant								
17	\$ 4,240	\$ 4,388	\$ 4,541	\$ 4,701	\$ 4,865	\$ 5,036	\$ 5,211	\$ 5,419
Administrative Assistant Chemical Specialist Inspector Lead Utility Locator Legal Assistant Maintenance Specialist Program Coordinator (Law) Warehouse Specialist								
18	\$ 4,346	\$ 4,498	\$ 4,655	\$ 4,818	\$ 4,987	\$ 5,160	\$ 5,341	\$ 5,556
Building Repair Specialist Street Light Technician II Water Quality Technician								
19	\$ 4,454	\$ 4,610	\$ 4,771	\$ 4,938	\$ 5,110	\$ 5,290	\$ 5,475	\$ 5,694
Lead Maintenance Worker Utility Maintenance Mechanic Utility Specialist								
20	\$ 4,565	\$ 4,725	\$ 4,890	\$ 5,062	\$ 5,239	\$ 5,422	\$ 5,612	\$ 5,837
21	\$ 4,680	\$ 4,843	\$ 5,013	\$ 5,188	\$ 5,370	\$ 5,558	\$ 5,751	\$ 5,982
Paralegal Recreation Coordinator C Rehabilitation Specialist Traffic Signal Technician								
22	\$ 4,796	\$ 4,965	\$ 5,139	\$ 5,317	\$ 5,505	\$ 5,696	\$ 5,896	\$ 6,132
Water Quality Coordinator Water Treatment Plant Operator								
23	\$ 4,917	\$ 5,089	\$ 5,267	\$ 5,451	\$ 5,641	\$ 5,839	\$ 6,044	\$ 6,285
Recreation Coordinator D								

24	\$ 5,040	\$ 5,216	\$ 5,399	\$ 5,587	\$ 5,783	\$ 5,985	\$ 6,195	\$ 6,442
25	\$ 5,165	\$ 5,347	\$ 5,533	\$ 5,727	\$ 5,927	\$ 6,135	\$ 6,350	\$ 6,603
Electrician HVAC Technician Investigator Lead Traffic Signal Technician Utility Electrician								
26	\$ 5,295	\$ 5,480	\$ 5,671	\$ 5,870	\$ 6,076	\$ 6,288	\$ 6,509	\$ 6,769
Lead Water Treatment Plant Operator SCADA Technician								
27	\$ 5,427	\$ 5,617	\$ 5,814	\$ 6,017	\$ 6,227	\$ 6,445	\$ 6,671	\$ 6,938
Traffic Signal Specialist Warehouse Supervisor								
28	\$ 5,563	\$ 5,758	\$ 5,958	\$ 6,166	\$ 6,383	\$ 6,607	\$ 6,838	\$ 7,111
Public Works Supervisor								
29	\$ 5,701	\$ 5,901	\$ 6,107	\$ 6,321	\$ 6,542	\$ 6,772	\$ 7,008	\$ 7,289
30	\$ 5,844	\$ 6,049	\$ 6,260	\$ 6,480	\$ 6,705	\$ 6,942	\$ 7,183	\$ 7,471
31	\$ 5,991	\$ 6,200	\$ 6,417	\$ 6,641	\$ 6,874	\$ 7,114	\$ 7,364	\$ 7,657
32	\$ 6,140	\$ 6,355	\$ 6,577	\$ 6,807	\$ 7,046	\$ 7,292	\$ 7,547	\$ 7,850

Salary Schedule adjusted by 2% effective January 1, 2019

AFSCME 2019 Pay Ranges								
Range Number	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1	\$ 2,913	\$ 3,015	\$ 3,121	\$ 3,230	\$ 3,343	\$ 3,460	\$ 3,580	\$ 3,724
Recreation Coordinator A								
2	\$ 2,986	\$ 3,091	\$ 3,199	\$ 3,310	\$ 3,425	\$ 3,547	\$ 3,671	\$ 3,817
3	\$ 3,061	\$ 3,168	\$ 3,279	\$ 3,394	\$ 3,512	\$ 3,634	\$ 3,762	\$ 3,912
4	\$ 3,137	\$ 3,247	\$ 3,360	\$ 3,477	\$ 3,600	\$ 3,726	\$ 3,856	\$ 4,011
5	\$ 3,214	\$ 3,327	\$ 3,445	\$ 3,565	\$ 3,689	\$ 3,819	\$ 3,951	\$ 4,110
6	\$ 3,296	\$ 3,411	\$ 3,530	\$ 3,655	\$ 3,782	\$ 3,914	\$ 4,051	\$ 4,213
Warehouse Worker								
7	\$ 3,378	\$ 3,497	\$ 3,619	\$ 3,745	\$ 3,877	\$ 4,013	\$ 4,152	\$ 4,319
Legal Secretary								
8	\$ 3,463	\$ 3,583	\$ 3,710	\$ 3,839	\$ 3,973	\$ 4,113	\$ 4,256	\$ 4,427
9	\$ 3,550	\$ 3,674	\$ 3,802	\$ 3,935	\$ 4,072	\$ 4,215	\$ 4,363	\$ 4,538
Warehouse Technician								
10	\$ 3,637	\$ 3,765	\$ 3,896	\$ 4,034	\$ 4,175	\$ 4,322	\$ 4,472	\$ 4,650
Facilities Maintenance Specialist I Maintenance Worker I								
11	\$ 3,729	\$ 3,859	\$ 3,994	\$ 4,133	\$ 4,279	\$ 4,429	\$ 4,583	\$ 4,766
Recreation Coordinator B								
12	\$ 3,823	\$ 3,956	\$ 4,094	\$ 4,237	\$ 4,386	\$ 4,540	\$ 4,698	\$ 4,886
Street Light Technician I								
13	\$ 3,917	\$ 4,055	\$ 4,197	\$ 4,343	\$ 4,495	\$ 4,652	\$ 4,815	\$ 5,009
Maintenance Worker II Utility Locator								
14	\$ 4,016	\$ 4,155	\$ 4,301	\$ 4,451	\$ 4,607	\$ 4,770	\$ 4,936	\$ 5,133
15	\$ 4,116	\$ 4,260	\$ 4,408	\$ 4,563	\$ 4,723	\$ 4,888	\$ 5,059	\$ 5,261
16	\$ 4,219	\$ 4,367	\$ 4,520	\$ 4,677	\$ 4,840	\$ 5,011	\$ 5,186	\$ 5,394

Facilities Maintenance Specialist II Water System Operator Water Quality Assistant								
17	\$ 4,325	\$ 4,476	\$ 4,632	\$ 4,795	\$ 4,962	\$ 5,137	\$ 5,315	\$ 5,527
Administrative Assistant Chemical Specialist Inspector Lead Utility Locator Legal Assistant Maintenance Specialist Program Coordinator (Law) Warehouse Specialist								
18	\$ 4,433	\$ 4,588	\$ 4,748	\$ 4,914	\$ 5,087	\$ 5,263	\$ 5,448	\$ 5,667
Building Repair Specialist Street Light Technician II Water Quality								
19	\$ 4,543	\$ 4,702	\$ 4,866	\$ 5,037	\$ 5,212	\$ 5,396	\$ 5,585	\$ 5,808
Lead Maintenance Worker Utility Maintenance Mechanic Utility Specialist								
20	\$ 4,656	\$ 4,820	\$ 4,988	\$ 5,163	\$ 5,344	\$ 5,530	\$ 5,724	\$ 5,954
21	\$ 4,774	\$ 4,940	\$ 5,113	\$ 5,292	\$ 5,477	\$ 5,669	\$ 5,866	\$ 6,102
Paralegal Recreation Coordinator C Rehabilitation Specialist Traffic Signal								
22	\$ 4,892	\$ 5,064	\$ 5,242	\$ 5,423	\$ 5,615	\$ 5,810	\$ 6,014	\$ 6,255
Water Quality Coordinator Water Treatment Plant Operator								
23	\$ 5,015	\$ 5,191	\$ 5,372	\$ 5,560	\$ 5,754	\$ 5,956	\$ 6,165	\$ 6,411
Recreation Coordinator D								
24	\$ 5,141	\$ 5,320	\$ 5,507	\$ 5,699	\$ 5,899	\$ 6,105	\$ 6,319	\$ 6,571
25	\$ 5,268	\$ 5,454	\$ 5,644	\$ 5,842	\$ 6,046	\$ 6,258	\$ 6,477	\$ 6,735
Electrician HVAC Technician Investigator Lead Traffic Signal Technician Utility Electrician								

26	\$ 5,401	\$ 5,590	\$ 5,784	\$ 5,987	\$ 6,198	\$ 6,414	\$ 6,639	\$ 6,904
Lead Water Treatment Plant Operator SCADA Technician								
27	\$ 5,536	\$ 5,729	\$ 5,930	\$ 6,137	\$ 6,352	\$ 6,574	\$ 6,804	\$ 7,077
Traffic Signal Specialist Warehouse Supervisor								
28	\$ 5,674	\$ 5,873	\$ 6,077	\$ 6,289	\$ 6,511	\$ 6,739	\$ 6,975	\$ 7,253
Public Works Supervisor								
29	\$ 5,815	\$ 6,019	\$ 6,229	\$ 6,447	\$ 6,673	\$ 6,907	\$ 7,148	\$ 7,435
30	\$ 5,961	\$ 6,170	\$ 6,385	\$ 6,610	\$ 6,839	\$ 7,081	\$ 7,327	\$ 7,620
31	\$ 6,111	\$ 6,324	\$ 6,545	\$ 6,774	\$ 7,011	\$ 7,256	\$ 7,511	\$ 7,810
32	\$ 6,263	\$ 6,482	\$ 6,709	\$ 6,943	\$ 7,187	\$ 7,438	\$ 7,698	\$ 8,007

Salary Schedule adjusted by 2% effective January 1, 2020

AFSCME 2020 Pay Ranges								
Range Number	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1	\$ 2,971	\$ 3,075	\$ 3,183	\$ 3,295	\$ 3,410	\$ 3,529	\$ 3,652	\$ 3,798
Recreation Coordinator A								
2	\$ 3,046	\$ 3,153	\$ 3,263	\$ 3,376	\$ 3,494	\$ 3,618	\$ 3,744	\$ 3,893
3	\$ 3,122	\$ 3,231	\$ 3,345	\$ 3,462	\$ 3,582	\$ 3,707	\$ 3,837	\$ 3,990
4	\$ 3,200	\$ 3,312	\$ 3,427	\$ 3,547	\$ 3,672	\$ 3,801	\$ 3,933	\$ 4,091
5	\$ 3,278	\$ 3,394	\$ 3,514	\$ 3,636	\$ 3,763	\$ 3,895	\$ 4,030	\$ 4,192
6	\$ 3,362	\$ 3,479	\$ 3,601	\$ 3,728	\$ 3,858	\$ 3,992	\$ 4,132	\$ 4,297
Warehouse Worker								
7	\$ 3,446	\$ 3,567	\$ 3,691	\$ 3,820	\$ 3,955	\$ 4,093	\$ 4,235	\$ 4,405
Legal Secretary								
8	\$ 3,532	\$ 3,655	\$ 3,784	\$ 3,916	\$ 4,052	\$ 4,195	\$ 4,341	\$ 4,516
9	\$ 3,621	\$ 3,747	\$ 3,878	\$ 4,014	\$ 4,153	\$ 4,299	\$ 4,450	\$ 4,629
Warehouse Technician								
10	\$ 3,710	\$ 3,840	\$ 3,974	\$ 4,115	\$ 4,259	\$ 4,408	\$ 4,561	\$ 4,743
Facilities Maintenance Specialist I Maintenance Worker I								
11	\$ 3,804	\$ 3,936	\$ 4,074	\$ 4,216	\$ 4,365	\$ 4,518	\$ 4,675	\$ 4,861
Recreation Coordinator B								
12	\$ 3,899	\$ 4,035	\$ 4,176	\$ 4,322	\$ 4,474	\$ 4,631	\$ 4,792	\$ 4,984
Street Light Technician I								
13	\$ 3,995	\$ 4,136	\$ 4,281	\$ 4,430	\$ 4,585	\$ 4,745	\$ 4,911	\$ 5,109
Maintenance Worker II Utility Locator								
14	\$ 4,096	\$ 4,238	\$ 4,387	\$ 4,540	\$ 4,699	\$ 4,865	\$ 5,035	\$ 5,236
15	\$ 4,198	\$ 4,345	\$ 4,496	\$ 4,654	\$ 4,817	\$ 4,986	\$ 5,160	\$ 5,366
16	\$ 4,303	\$ 4,454	\$ 4,610	\$ 4,771	\$ 4,937	\$ 5,111	\$ 5,290	\$ 5,502

Facilities Maintenance Specialist II Water System Operator Water Quality Assistant								
17	\$ 4,412	\$ 4,566	\$ 4,725	\$ 4,891	\$ 5,061	\$ 5,240	\$ 5,421	\$ 5,638
Administrative Assistant Chemical Specialist Inspector Lead Utility Locator Legal Assistant Maintenance Specialist Program Coordinator (Law) Warehouse Specialist								
18	\$ 4,522	\$ 4,680	\$ 4,843	\$ 5,012	\$ 5,189	\$ 5,368	\$ 5,557	\$ 5,780
Building Repair Specialist Street Light Technician II Water Quality								
19	\$ 4,634	\$ 4,796	\$ 4,963	\$ 5,138	\$ 5,316	\$ 5,504	\$ 5,697	\$ 5,924
Lead Maintenance Worker Utility Maintenance Mechanic Utility Specialist								
20	\$ 4,749	\$ 4,916	\$ 5,088	\$ 5,266	\$ 5,451	\$ 5,641	\$ 5,838	\$ 6,073
21	\$ 4,869	\$ 5,039	\$ 5,215	\$ 5,398	\$ 5,587	\$ 5,782	\$ 5,983	\$ 6,224
Paralegal Recreation Coordinator C Rehabilitation Specialist Traffic Signal								
22	\$ 4,990	\$ 5,165	\$ 5,347	\$ 5,531	\$ 5,727	\$ 5,926	\$ 6,134	\$ 6,380
Water Quality Coordinator Water Treatment Plant Operator								
23	\$ 5,115	\$ 5,295	\$ 5,479	\$ 5,671	\$ 5,869	\$ 6,075	\$ 6,288	\$ 6,539
Recreation Coordinator D								
24	\$ 5,244	\$ 5,426	\$ 5,617	\$ 5,813	\$ 6,017	\$ 6,227	\$ 6,445	\$ 6,702
25	\$ 5,373	\$ 5,563	\$ 5,757	\$ 5,959	\$ 6,167	\$ 6,383	\$ 6,607	\$ 6,870
Electrician HVAC Technician Investigator Lead Traffic Signal Technician Utility Electrician								

26	\$ 5,509	\$ 5,702	\$ 5,900	\$ 6,107	\$ 6,322	\$ 6,542	\$ 6,772	\$ 7,042
Lead Water Treatment Plant Operator SCADA Technician								
27	\$ 5,647	\$ 5,844	\$ 6,049	\$ 6,260	\$ 6,479	\$ 6,705	\$ 6,940	\$ 7,219
Traffic Signal Specialist Warehouse Supervisor								
28	\$ 5,787	\$ 5,990	\$ 6,199	\$ 6,415	\$ 6,641	\$ 6,874	\$ 7,115	\$ 7,398
Public Works Supervisor								
29	\$ 5,931	\$ 6,139	\$ 6,354	\$ 6,576	\$ 6,806	\$ 7,045	\$ 7,291	\$ 7,584
30	\$ 6,080	\$ 6,293	\$ 6,513	\$ 6,742	\$ 6,976	\$ 7,223	\$ 7,474	\$ 7,772
31	\$ 6,233	\$ 6,450	\$ 6,676	\$ 6,909	\$ 7,151	\$ 7,401	\$ 7,661	\$ 7,966
32	\$ 6,388	\$ 6,612	\$ 6,843	\$ 7,082	\$ 7,331	\$ 7,587	\$ 7,852	\$ 8,167

Appendix B- Paid Time Off (PTO) Accrual Schedule Effective October 1, 2015

Employee Paid Time Off (PTO) Accrual Schedule For employees hired before March 24, 2003 and after January 1, 1980						
During Year of Service	Hours Per Month	Days Per Year (Based on an 8 hour day)	Maximum Accumulation Hours / Days (Based on an 8 hour day) (Maximum amount of payout at separation)		Maximum Accumulation Hours / Days (Based on an 8 hour day)	
1-5	18.34	27.5	440	55	608	76
6-10	20.34	30.5	488	61	656	82
11-15	22.34	33.5	536	67	704	88
16-20	24.34	36.5	584	73	752	94
21+	26.34	39.5	632	79	800	100

Employee Paid Time Off (PTO) Accrual Schedule For employees hired on or after March 24, 2003						
During Year of Service	Hours Per Month	Days Per Year (Based on an 8 hour day)	Maximum Accumulation Hours / Days (Based on an 8 hour day) (Maximum amount of payout at separation)		Maximum Accumulation Hours / Days (Based on an 8 hour day)	
1-2	15	22.5	360	45	528	66
3-5	18.34	27.5	440	55	608	76
6-10	20.34	30.5	488	61	656	82
11-15	22.34	33.5	536	67	704	88
16-20	24.34	36.5	584	73	752	94
21+	26.34	39.5	632	79	800	100

Employee Vacation Accrual Schedule Employees hired before January 1, 1980						
During Year of Service	Hours Per Month	Days Per Year (Based on an 8 hour day)	Maximum Accumulation Hours / Days (Based on an 8 hour day) (Maximum amount of payout at separation)		Maximum Accumulation Hours / Days (Based on an 8 hour day)	
21+	28.34	42	680	85	848	106

AFSCME, Local 307VC
Addendum Agreement – City Attorney’s Office Support Staff
January 1, 2018-December 31, 2020

This addendum agreement, hereinafter referred to as the Addendum, is effective as of the date indicated herein and is effective for the term of the AFSCME, Local 307VC collective bargaining agreement that begins January 1, 2018, hereinafter referred to as the Agreement, and it is by and between the City of Vancouver, a municipal corporation of the State of Washington and hereinafter referred to as the Employer, and the Washington State Council and City Employees, AFSCME Local 307VC, hereinafter referred to as the Union.

The articles in this Addendum are applicable to AFSCME employees of the City Attorney’s Office, and they modify and supersede the corresponding articles in the Agreement. Articles and sub-articles in the Agreement that are not modified in the Addendum apply, in their entirety, to all AFSCME bargaining units and members.

1. Recognition and Bargaining Unit

The Employer hereby recognizes the Union as the sole exclusive bargaining agent for the purposes of establishing wages, hours, fringe benefits and working conditions for employees of the City within the City Attorney’s bargaining unit as described below:

All office clerical, technical, and support personnel in the City Attorney’s office of the City of Vancouver, excluding elected officials, City Attorney and professional employees.

7. Identification of Jobs

- 7.7 Acting of Out-Of-Class Assignments: When acting or out-of-class appointments are made to higher paying positions, preference shall be given on a rotation basis to qualified employees within the program area or division. The rotation list shall be by seniority. Employees must have one (1) year of service prior to consideration for placement in an acting position. When the most senior employee has been given an out-of-class appointment, the next appointment shall be given to the next lower person on the list. Employees on the list have the option of refusing the out-of-class assignment.

10. Work Week, Hours of Work, Shifts

10.5 Shift Assignments

From time to time, current work schedules may be temporarily changed to fill needs due to sick leave, military leave, or unanticipated absences. This could involve transferring an employee from one period of consecutive days to another. Such change will not be subject to provisions for premium pay on the first, second and third days, or the fourth day in the case of a five (5) day work schedule, provided that the following criteria are met:

10.5.1 Any time a work schedule is changed, it will consist of consecutive days of work.

10.5.2 Employees will be notified of the change at least twenty-four (24) hours in advance of the new work schedule.

10.5.3 The work schedule change shall be of a temporary nature, not to exceed thirty (30) days.

10.5.4 Employees may request work schedule changes, but the City shall assume no obligation for premium pay on the initial first, second, and third days, or the fourth day in the case of a five (5) day work schedule of the new shift.

10.5.5 A work schedule differential of \$2.00 per hour shall apply to regular work schedules that include a Saturday or Sunday.

10.6 Flexible Work Schedules – Applies to Employees of the City Attorney’s Office

The Union and the City mutually agree that staff of the City Attorney’s Office (CAO) covered under this agreement may flex their hours to accommodate issues arising from personal and/or work-related situations. Allowing staff to flex their hours across days, i.e. from one day to the next, may cause an employee to work more hours than their regular shift on one day while working fewer hours than their regular shift the next day. In the event an employee’s schedule is flexed from one day to the following day, the employee shall not be entitled to overtime pay as provided in Article 11.5.1 of this agreement. The City shall still be required to

comply with the overtime provisions of the Fair Labor Standards Act should an employee work more than forty (40) hours in the work week.

Requests for flex scheduling need to be scheduled within or reasonably close to regular business hours.

Requests for flex scheduling will be handled on a case by case basis and must be approved in advance by the employee's supervisor. No employee will be denied a flex scheduling request for arbitrary or capricious reasons.

11. Rates of Pay

11.5.1 Overtime and Callback Time

All scheduled overtime and/or callback time shall be offered on a seniority basis by program area or based on the needs of a particular case or project, starting with the most senior qualified person.

25. Layoff, Recall, and Bumping

- 25.4 When an employee is identified for a layoff or reduction in force, he/she shall be permitted to move into a vacant job or classification, within the same bargaining unit and division (Criminal or Civil), provided that the employee meets the minimum qualifications for the job. If an employee has served in both the Criminal and Civil divisions and is qualified, he/she may bump into either division. If there is no vacancy to move into, the employee may bump according to the progression below:
- a. The employee may bump the least senior employee in the division (or bargaining unit for those who qualify and have served in both divisions) in his/her same classification, provided that the bumping employee has more seniority.
 - b. If no opportunity exists in subparagraph a. (above), then the employee may bump the least senior employee in the division (or bargaining unit for those who qualify and have served in both divisions) in the next lowest classification, provided that the bumping employee has more seniority.
 - c. If no opportunities exist in subparagraphs a. or b. (above), then the employee may bump the least senior employee

in the division (or bargaining unit for those who qualify and have served in both divisions) in the classification lower than the next lowest, provided the bumping employee has more seniority.

- 25.5 In all cases of movement into vacant positions and bumping, the employee must be qualified to perform the new position's duties at the time of movement (i.e., the employee has the requisite license, certification and/or training and experience at the time of movement).

Bumping may only occur within the same division (or bargaining unit for qualified employees who have served in both divisions), and an employee is only eligible for one bump attempt, meaning if he/she is not qualified to bump according to the progression above, no other bumping options will be allowed.

An employee who bumps into a new position as an alternative to layoff and who fails to perform the functions of the new position during probation will be placed on the reinstatement list. Such employees will only be eligible for reinstatement to the position from which they were laid off. Failure to pass probation for reasons other than performing the functions of the new position will result in termination in accordance with Article 22.

Dated this _____ day of _____, 2018.

For the Employer

For the Union

Eric Holmes, City Manager

Larry Clark, Business Agent,
AFSCME, 307VC

Lenda Crawford, Deputy City Manager

Dave McGrath, President,
AFSCME, 307VC

Kevin Battan, Vice-President,
AFSCME, 307VC

Yvonne Taylor, Executive Board,
AFSCME, 307VC
City Attorney's Office

Approved as to form:

E. Bronson Potter, City Attorney

Attest:

Natasha Ramras, City Clerk

AFSCME, Local 307VC
Addendum Agreement – Recreation Division
January 1, 2018-December 31, 2020

This addendum agreement, hereinafter referred to as the Addendum, is effective as of the date indicated herein and is effective for the term of the AFSCME, Local 307VC collective bargaining agreement that begins January 1, 2018, hereinafter referred to as the Agreement, and it is by and between the City of Vancouver, a municipal corporation of the State of Washington and hereinafter referred to as the Employer, and the Washington State Council and City Employees, AFSCME Local 307VC, hereinafter referred to as the Union.

The articles in this Addendum are applicable to AFSCME employees of the Recreation Division, and they modify and supersede the corresponding articles in the Agreement. Articles and sub-articles in the Agreement that are not modified in the Addendum apply, in their entirety, to all AFSCME bargaining units and members.

1. Recognition and Bargaining Unit

The Employer hereby recognizes the Union as the sole and exclusive bargaining agent for the purposes of establishing wages, hours, fringe benefits and working conditions for employees of the City within the Recreation bargaining unit as described below:

All full-time and regular part-time employees of the Recreation Division of the City of Vancouver Parks and Recreation Department in the Firstenburg Community Center, Marshall Community Center, Luepke Senior Center and the Vancouver Tennis Center, excluding supervisors, confidential employees, Parks Division employees, customer service representatives, facilities assistants, field maintenance, support specialists and department aides.

7. Identification of Jobs

7.7 Acting or Out-Of-Class Assignments: When acting or out-of-class appointments are made to higher paying positions, preference shall be given to the most senior qualified (including all required certifications) employees the next lowest classification within the workgroup. (For example, the most senior qualified Recreation Specialist B would be appointed to an acting or out-of class assignment for a Recreation Specialist C provided he or she was within the same workgroup.) Employees must have one

(1) year of service prior to consideration for placement in an acting position.
Employees may refuse the out-of-class assignment.

10. Work Week, Hours of Work, Shifts

10.3.2 For the purposes of administering shift differential, shifts are defined as follows:

Day Shift: 6:00 a.m. to 5:00 p.m.

Swing Shift: 3:00 p.m. to 12:00 a.m.

Graveyard Shift: 10:00 p.m. to 6:00 a.m.

Not all day, swing, or graveyard shifts will be within the specific shift start and end times noted above; however, if more than 50% of a shift is scheduled (including a split shift – where an employee works part of the shift, has a multiple hour block off, and then returns for the balance of the shift) in either the swing or graveyard shift, it will be eligible for shift differential. Shift differential rates are detailed in article 11.6.

10.5 Shift Assignments

10.5.5 No work schedule differential shall apply to regular work schedules that include a Saturday or Sunday.

10.6 Flexible Work Schedules – Applies to Non-Exempt Employees of the Recreation Division

Non-exempt staff of the Recreation Division covered under this agreement may flex their hours to accommodate issues arising from personal and/or work-related situations. Allowing staff to flex their hours across days, i.e. from one day to the next, may cause an employee to work more hours than their regular shift on one day while working fewer hours than their regular shift the next day. In the event an employee's schedule is flexed from one day to the following day, the employee shall not be entitled to overtime pay as provided in Article 11.6.1 of this agreement. The City shall still be required to comply with the overtime provisions of the Fair Labor Standards Act should an employee work more than forty (40) hours in the work week.

Requests for flex scheduling need to be scheduled within or reasonably close to regular business hours.

Requests for flex scheduling will be handled on a case by case basis and must be approved in advance by the employee's supervisor. No employee will be denied a flex scheduling request for arbitrary or capricious reasons.

11. Rates of Pay

11.5.1 Overtime

All scheduled overtime and/or callback time shall be offered on a seniority basis by workgroup (e.g. aquatics, fitness, etc.), starting with the most senior qualified (including all required certifications) employee in the classification required to meet the overtime needs (e.g., overtime would not be given to a Recreation Specialist A who had more seniority than a Recreation Specialist B if the overtime required staffing at the Recreation Specialist B level).

11.6 Overtime and Compensatory Time for Recreation Coordinator C's and D's- effective August 1, 2015

- 11.6.1 As exempt employees, Recreation Coordinator C's and D's are accountable for personal time management and are not entitled to overtime under the FLSA. Exempt employees may flex their hours to accommodate issues arising from personal and/or work-related situations. All flexing of hours must be within the same pay period.
- 11.6.2 However, by mutual agreement of the employer and employee, and with supervisor approval, employees may be eligible to receive overtime compensation above their regularly scheduled hours on an hour-for-hour basis.
- 11.6.3 With prior supervisor approval, employees may be eligible for overtime pay for extraordinary hours worked beyond their regularly scheduled hours in the pay period.
- 11.6.4 Employees may accrue compensatory time off in lieu of overtime compensation. Compensatory time off shall be accumulated at the same rate as overtime compensation would have otherwise been paid (1:1). The maximum accrual shall be forty (40) hours. Employees will be allowed to use accrued compensatory time off by mutual agreement with their supervisor. In the event an employee is affected by layoff from their regular position the employer will payout the balance of the Employee's compensatory time balance at the employee's rate of pay at the time of layoff.

13.3 – 13.6 Holidays for Recreation Coordinators and Administrative Assistants

	Recreation Coordinators A & B and Administrative Assistants	Recreation Coordinators C & D
Not Working	8 hrs holiday*	8 hrs holiday*
Scheduled (with supervisor approval)	1 1/2 times for hours worked; and 8 hrs holiday*	Straight time for hours worked; and 8 hrs holiday*
Emergency Call-In	1 1/2 times for hours worked; and 8 hrs holiday*	1 1/2 times for hours worked; and 8 hrs holiday*

***pro-rated by FTE for part-time**

25. Layoff, Recall, and Bumping

25.4 When an employee is identified for a layoff or reduction in force, he/she shall be permitted to move into a vacant job or classification, within the same bargaining unit (Parks, Streets, Recreation), provided that the employee meets the minimum qualifications for the job. If there is no vacancy to move into, the employee may bump according to the progression below:

- a. The employee may bump the least senior employee in the bargaining unit in his/her same classification, provided that the bumping employee has more seniority (e.g. Recreation Coordinator D bumps a less senior Recreation Coordinator D) and also holds any required certifications.
- b. If no opportunity exists in subparagraph a. (above), then the employee may bump the least senior employee in the bargaining unit in the next lowest classification, provided that the bumping employee has more seniority (e.g. Recreation Coordinator D bumps the least senior Recreation Coordinator C) and also holds any required certifications.
- c. If no opportunities exist in subparagraphs a. or b. (above), then the employee may bump the least senior employee in the bargaining unit in the classification lower than the next lowest, provided the bumping employee has more seniority (e.g. Recreation Coordinator D bumps the least senior Recreation Specialist B) and also holds any required certifications.

Dated this _____ day of _____, 2018.

For the Employer

For the Union

Eric Holmes, City Manager

Larry Clark, Business Agent
AFSCME, 307VC

Lenda Crawford, Deputy City Manager

Dave McGrath, President,
AFSCME, 307VC

Kevin Battan, Vice-President,
AFSCME, 307VC

James Fields, Executive Board
AFSCME, 307VC
Parks and Recreation

Approved as to form:

E. Bronson Potter, City Attorney

Attest:

Natasha Ramras, City Clerk

Agreement
by and between
City of Vancouver
and
AFSCME, Local #307VC

January 1, 2018 – December 31, 2020

AFSCME Contract

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PREAMBLE

This agreement is entered into by the City of Vancouver, Washington, hereafter referred to as “Employer” and Local 307 of the American Federation of State, City and Municipal Employees, AFL-CIO, hereinafter referred to as the “Union.”

The purpose of this agreement is to set forth the mutual understanding of the parties as to wages, hours and working conditions consistent with the Employer’s and the Union’s mutual objective of providing ever-improved, efficient, effective, uninterrupted performance of City functions, and courteous services to the public. It is the Employer’s responsibility to provide services that promote the health, safety and welfare of the public through means that are cost-effective, progressive, responsive, courteous and productive. The Union is committed to those efforts. The Employer and Union share a mutual interest in engaging in efforts to promote a labor relations environment that is conducive to achieving a high level of efficiency and productivity in all departments of City government.

Except as otherwise required by law, regulation or grant provisions, the parties agree to the provisions in this agreement.

1. Recognition and Bargaining Unit

1.1 The Employer hereby recognizes the union as the sole and exclusive bargaining agent for the purposes of establishing wages, hours, fringe benefits, and working conditions for employees of the City within this bargaining unit. The classifications currently covered by this agreement are set forth herein, but are not limited to those included in Appendix A to this Agreement. City employees who are excluded from the bargaining unit are:

- A. Temporary, seasonal;
- B. Employees certified to another bargaining unit;
- C. Supervisory and confidential employees;
- D. Others as mutually determined by the parties;
- E. Elected officials and their appointed staff
Designated as unclassified service per
RCW 41.50.030(2).

Definitions

Regular Full-Time Employee: Employees who hold a budgeted/Council approved position and who are normally scheduled to work at least 37.5 hours per week.

Regular Part-time Employee: Employees who hold a part-time budgeted/Council approved position and who are normally scheduled to work a minimum of 20 hours and less than 37.5 hours per week. Part-time employees receive benefits and accrue seniority on a pro-rated basis, based on their budgeted or assigned FTE percentage. An example of this would be: an employee working half time (20 hours/week) for 10 years shall receive seniority credit for 5 years of service.

Exempt Employee: Employees designated under the Fair Labor Standards Act (FLSA) as exempt are not eligible for overtime. Recreation Coordinators (Recreation Specialist C and D) are FLSA exempt employees.

Non-Exempt Employee: Employees designated under the Fair Labor Standards Act (FLSA) as non-exempt are overtime eligible.

1.2 The Employer will notify the Union regarding newly created or substantially modified classifications to provide the opportunity to comment on inclusion/exclusion from the unit. If the parties cannot resolve the question of inclusion/exclusion, the matter shall be presented to the Public Employment Relations Commission (PERC). Either party may petition PERC to review the

position in question to render a written opinion of its findings that shall be binding on the Employer and the Union.

- 1.3 Conflict in Language. There may be times when language in the contract conflicts with language used in other labor and employment tools (e.g. addendums, personnel policies, etc.)
 - 1.3.1 In instances where contract language is in conflict with addenda, addenda take precedence over the Master Agreement.
 - 1.3.2 In instances where contract language is in conflict with City personnel policies, contract language takes precedence over the policies.

2. Nondiscrimination

- 2.1 The Employer and the Union agree that they will not discriminate unfairly against any employee by reason of race, creed, age, color, sex, national origin, religious belief, marital status, mental or physical disability, sexual orientation, active military duty or employees who have been honorably discharged, or any other criteria established by state or federal statutes, rules or regulations.
- 2.2 Whenever words denoting the masculine gender are used in this agreement, they are intended to apply equally to either gender.
- 2.3 There shall be no discrimination or harassment exercised against any employee covered by this agreement because of his or her membership or Union activities.

3. Rights of Management

- 3.1 The management of the City, including but not limited to, the organization, scheduling, staffing, and direction of the workforce, is vested exclusively in the Employer, subject to the terms of this agreement. The City retains the right to determine what complement of employees shall perform the work, including but not limited to, temporary employees, volunteers, supervisory, union employees and/or corrections crews. Examples of management rights include, but are not limited to:
 - 3.1.1 To take whatever action is either necessary or advisable to determine, manage and fulfill the mission of the organization;
 - 3.1.2 To determine the number of employees to be employed;
 - 3.1.3 To hire employees, determine their qualifications and assign and direct their work;
 - 3.1.4 To evaluate employees' performance;

- 3.1.5 To set the standards of productivity, and the services to be provided;
 - 3.1.6 To control and regulate the use of facilities, equipment, and other property of the Employer;
 - 3.1.7 To determine the number, location and operation of departments, divisions, and all other units of the Employer;
 - 3.1.8 Determine the methods, processes and means of providing City services;
 - 3.1.9 Appoint and/or lateral transfer the assignment of employees to specific jobs within their job classification or title.
- 3.2 The Employer has the right to introduce any and all new, improved and automated methods or equipment to improve efficiency and to reduce costs and assign employees within the bargaining unit in accordance with such improvements and cost reduction methods. All matters not specifically and expressly covered or treated by the language of this agreement may be administered for its duration by the Employer in accordance with such policies or procedures as the Employer, from time to time, may determine. This article recognizes an employee's right to use the grievance procedures set forth in article 21 below.

4. Union Security

- 4.1 Rights of Bargaining Unit Employees: Subject to the provisions of this Article and in compliance with federal and state law, it shall be a condition of employment that all City employees covered by this Agreement shall become and remain members of the Union in good standing. There shall be no discrimination exercised against any employee covered by the Agreement because of his or her membership of Union activities. All future employees will be expected to join the Union and pay dues after thirty (30) days of employment.
- 4.2 The Employer agrees to deduct twice a month Union membership dues from the pay of those employees who have requested, in writing, on dues deduction authorization forms provided to the employer by the union, that such deductions be made. The amounts to be deducted will be certified by the Washington State Council of City and County Employees, and the aggregate deduction of all Union members shall be remitted to the Everett, Washington office of Council 2 twice a month.
- 4.3 In the event an employee member of the Union fails to maintain their membership in the Union in good standing therein by the regular payment of dues, the Union will notify the Employer in writing, through Human Resources (HR) of such employee's delinquency. The Employer agrees to give notice to the employee

within five (5) working days that his/her employment status with the Employer is in jeopardy and that failure to meet his/her membership obligation within thirty (30) calendar days from the date such notice is received will result in termination.

- 4.4 Appointment to Excluded Positions: Deductions for Union dues shall cease beginning with the pay period following an employee's regular appointment to a position which is excluded from the bargaining unit.
- 4.5 Defense and Indemnification of the City: The Union agrees that it will indemnify, defend and hold the City harmless from all suits, actions, proceedings or claims against the City or persons acting on behalf of the City, whether for damages, compensation, reinstatement, or any combination thereof, arising out of application of this Article. In the event any decision is rendered by the highest court having jurisdiction that any portion of this Article is invalid and/or that reimbursements must be made to any employees affected, the Union shall be solely responsible for such reimbursements.
- 4.6 Listing of New and Terminated Employees: The Employer agrees to notify the Union of new hires within the first thirty (30) days of employment:
 - a. By the 10th of the following month, a listing of bargaining unit employees hired, promoted or terminated during the previous month. Such listing shall contain the names of the employees, along with their job classification, and department.
 - b. At the Union's request and up to two (2) times a year the employer will provide a listing of bargaining unit members, their department/section, classification, base pay, fulltime/part-time status and number of scheduled hours, city seniority date, and classification seniority date.
 - c. At the Union's request and up to two (2) times a year the employer will provide a listing of all non-represented employees, their classification and department.

5. Union Representatives and Union Activity

- 5.1 The Union shall inform the Employer in writing of the names of its officers, business representatives and stewards who are accredited to represent the Union, which information shall be kept up-to-date at all times. Only persons so designated will be accepted by the Employer as representatives of the Union.
- 5.2 Union representatives may, after receiving permission from the supervisor, visit the work location of employees covered by this agreement, for the purpose of administering provisions of the agreement related to grievance processing, disciplinary action and posting of Union notices on City provided bulletin boards.

5.3 Solicitation of Union membership or collection or checking of dues will not be conducted during working hours other than as follows:

1. Union representatives are allowed access to new employees at an agreed upon time by the City and Union, for purposes of informing the employee about the exclusive bargaining representative within the first ninety (90) days of the employee's start date; and
2. Union representatives shall have access to new employees once for new employee orientation for no more than 30 minutes; and
3. Access shall occur during the employee's regular working hours at the employee's regular worksite, unless otherwise agreed.

The Employer agrees not to discriminate against any member of the Union for his or her activity in behalf of or membership in the Union, provided such activity is not carried on during working hours, except as expressly provided in this agreement.

5.4 Employee officers of the Union or stewards shall be allowed reasonable time away from their work assignment for the purposes of meetings with the City for collective bargaining, grievances or disciplinary hearings or such other legitimate activities as are mutually agreed upon between the Union and the City. City employees participating in such meetings or activities will be allowed to do so without loss of pay if scheduled during said employee's regularly scheduled work time. If meetings or activities go beyond the regularly scheduled work time, then the employees shall be on their own time not paid by the City.

For the purposes of attendance at the bargaining table, not more than two (2) on duty employees will be present from Operations, not more than one (1) on duty employee will be present from the City Attorney's Office, and not more than one (1) on duty employee will be present from the Recreation Division, for a total of four (4) when bargaining the master agreement.

For the purposes of bargaining the addendums, not more than four (4) on duty employees may be present, and of those four (4), no more than two (2) may be from one department (e.g. Recreation addendum, no more than two on-duty Recreation employees) will be present.

5.4.1 Employee Union representatives shall request permission from their immediate manager for time away from their work assignment. Such request shall be granted provided the time does not unreasonably detract from their work performance and is in compliance with the above requirements as to the nature of the activity. Time away from their work assignment to act in the role of Union representative shall be coded on their timesheet as "Union Leave."

- 5.4.2 Employee Union representatives and affected employees shall be allowed time away from their work assignment for meetings with the City. A reasonable amount of prep and debrief time necessary for these meetings shall be allowed.
- 5.5 City work hours shall not be used by employees or the business representatives for the conduct of Union business or the promotion of Union affairs other than stated above.
- 5.6 The City shall provide bulletin board space for Union notices in a conspicuous location where workers frequent regularly in each work area.
- 5.7 Union Business Unpaid Leave: Shop Stewards and Union Officers are eligible for Union Business Unpaid Leave, provided the City grants such requests. Written requests for such leave shall be given to the affected employee's immediate supervisor and to the Department Director of his/her designee. Leave for a single day activity must be requested at least five (5) working days in advance, and leave for multiple day activities should be requested as far in advance as possible, but must be requested at least ten (10) working days in advance. Union Business Unpaid Leave may be granted for not more than six (6) months. The number of officers or stewards authorized for unpaid leave will vary depending on the length of the leave requested and the impact of leave on staffing levels. The Union will make every effort to avoid disruptions of work.

Leave addressed in this section would pertain to activities such as contract administration, including covering for union staff replacement, attending training conferences such as arbitration/grievance training, and preparing for negotiations; performing Officers/Delegates duties including attending AFSCME International Convention, Council 2 Convention, AFL-CIO Convention, other conferences such as the Women's Convention, or appointment to AFSCME or other Union board seats or committees; and other mutually agreed activities.

Time away from an employee's work assignment to act in these roles shall be approved by the appropriate manager and coded on his/her timesheet accordingly.

- 5.8 Use of City telephones or computers related to Union business
- a. City telephones or computers is allowed subject to the following:
 - 1. When such use is de minimis and incidental, such as arranging a meeting with a Union Representative.
 - 2. For the purpose of conducting an investigation of a grievance, such as individual inquiries to co-workers.
 - 3. For the purpose of interacting with the City's representatives concerning Union-City business, such as setting dates for City-Union meetings, making inquiries regarding grievances, etc.

- b. The uses cited in “Subsection a” above may continue only to the extent that they are not an additional cost to the City. The content of any and all communications using the City computer system is not privileged and may be subject to City review.

6. Strikes, Work Stoppages and Work Slowdowns

- 6.1 The Employer and the Union’s signatory to this agreement agree that the public interest requires the efficient and uninterrupted performance of all city services and to this end pledge their best efforts to avoid or eliminate any conduct contrary to this objective. During the term of this agreement, the Union and/or the employees covered by this agreement shall not cause or engage in any work stoppage, strikes, slowdown or other interference with Employer functions, nor shall the city institute a lockout.
- 6.2 In the event that a strike, boycott, slowdown, mass sick call, work stoppage or other interruption of work occurs during the life of this agreement, the Employer shall notify the Union of the existence of such activity and request information from the Union as to whether or not the activity has been authorized. The Union, after immediately responding to the Employer’s request, will then proceed to make every reasonable effort to terminate the work interruption activity and induce the employees concerned to return to work so that service to the citizens of the City of Vancouver will not be affected. Employees shall not earn any benefits or wages whatsoever while they are engaged in such actions. In addition, employees who engage in or encourage such actions shall be subject to discipline, up to and including discharge.

7. Identification of Jobs

- 7.1 Job Classifications. Job classifications shall be defined by the current class specification for each of the job class titles listed in Appendix A.
- 7.2 Work Assignment. The Employer shall have the sole responsibility for making work assignments. In the event of conflicting assignments from management representatives, the employee shall have the right to seek clarification from the directing management representative. The employee shall not be disciplined for following management directives.
- 7.3 Market Comparables. The City and Union agree to discuss market comparables as they relate to classification studies.
- 7.4 Reclassifications. A reclassification review is an analysis of an employee’s duties and responsibilities to determine whether he or she is in the correct classification and salary range. Individual employees or management may initiate a

reclassification review by submitting a request to Human Resources. Human Resources may also initiate studies of positions or groups of positions. When a reclassification is requested, the Employer shall conduct the classification review.

If reasonable and practical, the Employer will assign the positions to an existing class which better describes the duties assigned to the job. If there is no appropriate existing job classification, the Employer shall establish a new job classification. If the incumbent in the position is qualified for the revised job classification, he/she shall be placed in the new classification at the nearest step providing an increase. An incumbent who is not qualified for the new classification shall maintain his or her current range and continue to receive any step increases that are due.

- 7.5 New Classifications. A new classification may result when a position no longer corresponds to an existing City classification or when a new position is created by the City for which no classification exists. The salary range for the new classification shall be established by the Employer so that its salary is competitive. Compensation for new classifications will be determined based on factors including internal equity, market comparables, and other relevant factors.

The salary range shall be submitted to the Union for review and discussion. Within thirty (30) calendar days of City notice, the Union shall notify the City of its agreement or disagreement with the City's provisional salary range for the new classification. If the Union disagrees with the salary range, the parties will engage in negotiations regarding the compensation for the classification. If the parties are unable to mutually agree on the compensation for the classification and mediation does not result in a resolution, such dispute shall be resolved through the arbitration process.

The City shall have the right to employ persons at its provisional salary range during the term of negotiations, subject to full retroactive payment to all affected employees upon the conclusion of negotiations or arbitration.

- 7.6 Notification to the Union. If a new classification is established by the City, a notification consisting of the job specification will be provided in writing to the Union.
- 7.7 Acting or Out-Of-Class Assignments. When acting or out-of-class appointments are made to higher paying positions, preference shall be given on a rotation basis to qualified employees within the division. The rotation list shall be by seniority. Employees must have one (1) year of service prior to consideration for placement on the rotation list. When the most senior employee has been given an out-of-class appointment, the next appointment shall be given to the next lower person on the list. Employees on the list have the option of refusing the out-of-class assignment.

8. Posting of Jobs

- 8.1 It is the desire and intent of the Employer to fill job vacancies from qualified applicants within the city before hiring new employees, providing the employees who apply have the required qualifications for the particular job.
- 8.2 Vacant positions will be filled from employment lists established by Human Resources except when an alternate procedure is allowed by city ordinance in the case of entry level positions and flexibly staffed positions.

A flexibly staffed position is one which may be filled at the entry (I) level by an employee who may be promoted to the full working (II) level on the basis of successful performance at the entry level.

Placement on an employee list will be on the basis of examination of candidates' qualifications. Employees shall be allowed paid time off from their work schedule to participate in interviews for in-house positions. When candidates are to be examined for placement on an employment list, the City will post a notice of the examination and accept applications for a minimum of five (5) working days. The five (5) working days will overlap two consecutive weeks. The notice of examination will be posted for at least two (2) days of each consecutive week. For example, a notice posted on Wednesday will close on Tuesday of the following week.

The employment list will be effective for six (6) months. Such notices shall be posted at various city work sites. Employees may decline consideration for appointment to a vacant position and remain on the employment list in the same rank or position.

- 8.3 Vacant positions may be posted on a simultaneous or internal/external basis, based on the following guidelines:
 - 8.3.1 All applications will be collected directly by the Human Resources Department.
 - 8.3.2 The Employer shall first view internal applications.
 - 8.3.3 If the Employer determines that no internal candidates meet the qualifications or staffing needs as stated on the job announcement, the Employer may consider the external applicants in its recruitment process.
- 8.4 Regular Appointments – When regular appointments are made, current employees shall be given preference by their seniority if their qualifications are equal or superior to those of other applicants.

9. Probation

- 9.1 A newly hired or rehired employee is subject to a six-month probationary period. The probationary period for new employees may be extended, with notification to the Union, to three (3) additional months. Upon Union approval an additional three (3) month extension may be granted. The Employer may discipline or discharge any newly hired or rehired employee at any time during the probationary period, with or without cause, and such discipline or discharge shall not be subject to appeal.
- 9.2 Promotions and voluntary demotions are subject to a six-month probationary period. The probationary period for a promotion or voluntary demotion may be extended, with notification to the Union, to a maximum of six (6) additional months. In the event an employee does not successfully complete a promotion/demotion probationary period, the employee will be assigned to the employee's original position (if available or vacant) or to another vacant position for which he/she is qualified in the same class as, and at the same salary level as, the employee's original position. An employee returning to the position they held prior to the promotion or voluntary demotion will not serve another probationary period. If the original position is not available, and no other vacant position is available meeting the applicable criteria in this Article, the employee will be placed on a reinstatement list for their original position or classification for twenty four (24) months. Nothing in this section shall restrict the rights of the Employer under Article 22, below.
- 9.3 An employee who is transferred into a job within the same classification or takes a lateral transfer to a different classification within the same pay grade, may serve a six (6)-month probationary period, if the job is significantly different than their previous job. In the event an employee does not successfully complete a transfer probationary period, the employee will be assigned to the employee's original position (if vacant) or to another vacant position for which he/she is qualified in the same class, and at the same salary level as, the employee's original position. An employee returning to the position they held prior to the transfer will not serve another probationary period. If the original position is not available and no other vacant position is available, meeting the criteria in this Article, the employee will be placed on a reinstatement list for their original position or classification for twenty-four (24) months. Nothing in this section shall restrict the rights of the Employer under Article 22, below.
- 9.4 Nothing in this Article shall restrict an employee's entitlement to applicable provisions impacting wages and benefits.

10. Work Week, Hours of Work, Shifts

- 10.1 The work week is defined as the period between 12:01 a.m., Sunday through 12:00 midnight the following Saturday, unless otherwise determined for specific employees.

10.2 Work Schedule

The normal assigned work schedule for full-time, non-exempt staff shall be five (5) consecutive days of eight (8) consecutive hours, excluding lunch periods, followed by two (2) days of rest; not to exceed forty (40) hours of work in the work week. It is understood that the five (5) consecutive days does not imply a Monday through Friday schedule. Other work schedules may be determined by mutual agreement of the Union and the Employer.

10.3 Work Shift

Short term, temporary shift reassignments may be made when the Employer determines that an emergency exists. Under those circumstances, the Employer shall give the employee a minimum of four (4) hours' notice prior to the start of the new shift. If such notice is less than four (4) hours, the Employer shall pay the employee according to call-back pay provisions of 11.5 of this agreement.

- 10.3.1 An emergency is defined as a natural event or unexpected circumstance which necessitates the Employer to change schedules on short notice to address essential operational or service needs on an immediate basis.

- 10.3.2 Normal shift starting times shall begin within the following time frames:

First shift - 7:00 p.m. to 4:59 a.m. (graveyard)

Second shift - 5:00 a.m. to 11:59 a.m. (day shift)

Third shift - 12:00 noon to 6:59 p.m. (swing shift)

Regular assignments to openings on shifts will be made based on seniority when the employee meets the qualifications of the new shift and the Employer's work needs. A regular assignment is one with no end date or one which is expected to last over thirty days. If the most senior employees decline then a less senior employee may be assigned.

10.4 Rest Periods

Each employee shall be given a 20 minute paid rest period in the first half of the working shift and a 20 minute paid rest period in the second half of the working shift, and an unpaid lunch period during the shift. Such periods begin when the employee leaves the work site and ends upon his/her return to the work site.

10.5 Shift Assignments

From time to time, work schedules may be temporarily changed to fulfill business needs. These changes may be for a specific period of time, or may be only for a day.

10.5.1 In the instance where an employee is temporarily moved from a 4/10 schedule to a 5/8 schedule, it would involve transferring an employee from one period of consecutive days to another. Such change will not be subject to provisions for premium pay on the first, second and third days, or the fourth day in the case of a five (5) day work schedule; provided that the following criteria are met:

- a. Any time a work schedule is changed, it will consist of consecutive days of work.
- b. Employees will be notified of the change at least twenty-four (24) hours in advance of the new work schedule (and scheduled overtime).
- c. The work schedule change shall be of a temporary nature not to exceed thirty (30) days.

10.5.2 In the instance where an employee's start time is adjusted to accommodate a specific business need, employees will be notified at least twenty-four (24) hours in advance of the changed start time. Any notice less than twenty-four (24) hours before the changed start time would be paid under Article 11.6

10.5.3 Employees may request work schedule changes, but the City shall assume no obligation for premium pay on the initial first, second, and third days, or the fourth day in the case of a five (5) day work schedule of the new shift.

10.5.4 A work schedule differential of \$4.00 per hour shall apply to regular work schedules that include a Saturday or Sunday.

11. Rates of Pay

11.1 Wages

Wages will be set as outlined in Appendix "A"

As salary adjustments occur, they shall be calculated from step 1 of range 1.

Upon ratification of the 2018-2020 contract, employees who were active AFSCME members and eligible to vote on the ratification of the 2018-2020 AFSCME collective bargaining agreement will receive a one-time payment of \$600.00 (gross), prorated based on FTE status (e.g. a .75 FTE will receive \$450).

Effective January 1, 2018:

Salary schedules for covered classifications will be adjusted by 2.0%.

Effective January 1, 2019:

Salary schedules for covered classifications will be adjusted by 2.0%

Effective January 1, 2020:

Salary schedules for covered classifications will be adjusted by 2.0%

11.1.1 Pay Periods

The pay periods and pay dates will be as follows:

Pay Period	Pay Date
1 st through 15 th	25 th
16 th through end of month	10 th

Employees will be paid a monthly salary which shall be split equally between the two (2) pay periods. Timesheets submitted in error will be corrected on the following pay check.

11.2 Salary Step Plan

11.2.1 Newly Hired or Rehired Employees

Employees will move through the defined salary steps on an annual basis, based on adjusted service date.

11.2.2 Promoted Employees

At the time of promotion, employees will move to the step in the range of the new class which results in an increase of at least 5%. Upon successful completion of a promotional probationary period, the employee's salary shall then be increased to the next step of the new range and annually thereafter up to the top of the range. In no event shall a promoted employee's salary be less than the starting pay of the salary range for the new class, nor in excess of the highest step of the regular salary range for the new class.

11.2.3 Demoted Employees

Employees who voluntarily demote (defined as voluntarily applying for and accepting a position in a lower pay range) will be placed in the appropriate pay range for the new classification that results in the least amount of pay reduction, but not above the top of the new range. If an employee is not at the top step, their next step date will be one-year from the demotion date.

For example, an employee is currently at step 5 and is eligible for step 6 on November 1st, but they voluntarily demote to a new position on August 1st. Their next step date will be reset to one year later, August 1st and each August 1st thereafter until reaching the top step.

11.2.4 Laterally Transferred Employees

Employees who voluntarily take a lateral transfer (defined as voluntarily applying for and accepting a position in the same pay range) will remain at their same step. If an employee is not at the top step, they will retain their next step date.

For example, an employee is currently at step 3 and is eligible for step 4 on November 1st, but they laterally transfer to a new position on August 1st. They will continue to be eligible for their step increase on November 1st and each November 1st thereafter until reaching the top step.

11.2.5 Flexibly Staffed Positions

Flexibly staffed positions are classifications that allow the City to hire individuals who lack one of the required qualifications (such as CDL) at a lower level, and then give them the time to obtain the needed requirement. Upon attainment of the needed requirement, the individual's position is moved to the higher classification. An example is the Grounds Maintenance Specialist I/II classification. At the time the position is moved to the higher classification, the employee will move to the step in the range of the higher classification which results in an increase of at least 5%. The employee's next eligibility for a step increase is one year from that date and annually thereafter up to the top of the new range.

- 11.3 The hourly rate for a full time employee will be his/her monthly base rate multiplied by twelve (12) months and divided by 2,080 hours. This rate multiplied by eight (8) hours (or ten (10) hours, if applicable) will be the daily base rate; multiplied by forty (40) hours will be the weekly base rate; and multiplied by 173.3 hours will be the monthly base rate. For purposes of overtime calculations only, the employee's hourly base rate shall be calculated using all compensation required by FLSA.

Hourly rates for part time employees will be prorated based on budgeted or assigned FTE percentage.

11.4 [RESERVED]

11.5 *Callback Pay*

Employees who have completed their regular shift, are on the way home, or at home, and are required to work other than a continuation of their shift, and is not scheduled for overtime (as defined in (11.6.6), shall be paid at double their base rate of pay for hours worked. Any call-back pay shall be for a minimum of two (2) hours, during which time the Employer may provide and require work of the employee called back. This article does not apply to Recreation Coordinator C's and D's.

11.5.1 Overtime and Callback Time

All scheduled overtime (as defined in 11.6.6) and/or call back time shall be offered on a seniority basis by Department, starting with the most senior qualified person. Seniority within the workgroup is defined as length of employment with the City . At the Operations Center, when this departmental seniority list is exhausted, the AFSCME Seniority list will then be used. The most senior employees have the option as to placement on the call out list. Seniority for the AFSCME List is defined as length of employment with the city. Exceptions to offering scheduled overtime on a seniority basis may be made when unique qualifications are required to staff the event such as the Women in Trades or Diversity Job Fair. The City will notify the Union in advance of scheduling such overtime.

In workgroups who have an employee receiving pager/cell phone standby pay per Article 11.5.4, the initial call will go to the employee carrying the pager/cell phone who will be responsible for the call. Call back pay shall be paid in accordance with Article 11.5 and overtime shall be paid in accordance with Article 11.6. Unanticipated and unscheduled overtime which extends beyond the end of a shift for the crew working on a specific project will be offered first to the appropriate and qualified Union member(s) at the site working on the project at the end of the shift.

Temporary or seasonal workers will not be allowed to work scheduled overtime until regular full or part time employees within that work unit have had the opportunity to work the overtime. The Employer will make a good faith effort to notify regular employees of overtime opportunities before such work is offered to temporary workers. This will not preclude temporary or seasonal workers from working overtime which extends beyond the end of their shift or emergency situations.

11.5.2 Telephone Calls at Home After Hours

Employees who are required by the Employer to answer work-related questions by telephone when they are not at work shall be paid for time actually spent on the telephone at the rate of one-and-one-half (1 ½) their normal base rate calculated to the nearest quarter hour, with a quarter-hour minimum.

11.5.3 Computer Use at Home After Hours

Employees who are required by the Employer to respond to work-related questions by computer when they are not at work shall be paid for time actually spent on the computer at the rate of one-and-one-half (1 ½) their normal base rate calculated to the nearest quarter hour, with a one hour minimum.

11.5.4 Pager/Cell Phone Pay

If the Employer requires an employee to carry a pager or cell phone in order to respond to off duty call-outs, the employee carrying the pager or cell phone while off duty shall be compensated as outlined below. The employee on standby must be fit for duty and able to reach the assigned duty station in forty (40) minutes. This does not apply to the Operations' Technical Rescue Team which is covered by an existing Memorandum of Understanding.

Effective 1-1-15	\$150 per week	\$21.43 per day
Effective 7-1-15	\$230 per week	\$32.86 per day

11.6 *Overtime Compensation*

The Employer will attempt to meet its overtime requirements on a voluntary basis among the employees and in the event there are insufficient volunteers to meet the requirements, the Employer may require the necessary employees to work starting with the least senior qualified employee.

- 11.6.1 Overtime compensation will start anytime an employee is required to work beyond the end of his/her shift (typically eight (8) hours or ten (10) hours per shift) and will be compensated to the nearest quarter hour, at the rate of time and one-half (1/2) for the first eight (8) hours of overtime and thereafter at double time. Employees shall have the option to flex their schedule within their defined work week, without incurring overtime, as long as it is mutually agreed upon in advance.

- 11.6.2 Any employee required to work on his/her first day of rest, or his/her first and second day of rest in the case of employees who have three (3) consecutive days of rest, shall be compensated at his/her base rate plus one-half of his/her base rate or time and one-half (1/2).
- 11.6.3 Any employee required to work on his/her second day of rest, or his/her third day of rest in the case of employees who have three (3) consecutive days of rest, shall be compensated at his/her base rate plus his/her base rate (double time) for the first eight (8) hours of work, and for any hours worked over eight shall be compensated and his/her base rate plus time and one-half (2 ½) times). If the employee voluntarily chooses to work on these day(s) of rest, the employee shall be compensated as outlined in 11.6.2, above.
- 11.6.4 All overtime compensation shall be paid in compliance with the requirements of the Federal FLSA and applicable Washington State laws.
- 11.6.5 Employees may accrue compensatory time off in lieu of overtime compensation.
- 11.6.5.1 The decision to grant comp time as an alternative to paid overtime shall be at the Employer's discretion.
- 11.6.5.2 Compensatory time off shall be accumulated at the same rate as overtime compensation would have otherwise been paid (i.e., time and one-half generally, except for work on the employee's second day of rest, or third day of rest for employees with three (3) consecutive days of rest).
- 11.6.5.3 The maximum accrual shall be eighty (80) hours.
- 11.6.5.4 Employees will be allowed to use accrued compensatory time off by mutual agreement with their supervisor, and subject to any restrictions for such use established under the Fair Labor Standards Act (FLSA).
- 11.6.5.5 In the event an employee is affected by layoff from their regular position the employer will payout the balance of the Employee's compensatory time balance at the employee's rate of pay at the time of layoff.
- 11.6.6 **Scheduled Overtime (including meeting contractors)**
Scheduled overtime is anything scheduled before the end of the normal work shift or if scheduling on weekends or after normal shift hours, there shall be four (4) hours' notice to the supervisor or designee scheduling the work, before the end of the normal work shift. Any time scheduled under this article shall be paid at a minimum of two (2) hours overtime

at a rate of one and-one-half (1 ½) times their normal pay, during which time the Employer may provide and require work of the employee.

11.7 *Shift Differential*

Any employee whose regularly scheduled shift is the third shift (swing shift) as defined in 10.3.2 shall be paid a shift differential of one dollar and seventy-five cents (\$1.75) per hour for hours worked; any employee whose regularly scheduled shift is the first shift (graveyard) as defined in 10.3.2 shall be paid a shift differential of two dollars (\$2.00) per hour for hours worked. For purposes of shift differential payment, regularly scheduled includes scheduled overtime, but does not include call back or extension of shift overtime. Requested assignments made to accommodate an employee's personal situation and shifts picked up on overtime do not qualify for shift differential.

11.8 *Working Out-of-Class*

11.8.1 An employee who is temporarily assigned by management, in writing, to perform the principle (or full range) of the duties and responsibilities of a higher level position, without significant supervision, shall be paid either at a rate 5% above his/her current rate of pay (not to exceed the top of the range for the out-of-class assignment), or at the entry rate of the higher job class, whichever is greater.

11.8.1.1 An employee must be assigned for a period of three (3) or more consecutive work days to receive out-of-class pay. The out-of-class pay shall be paid beginning with the first hour of the assignment.

11.8.2 The same employee shall not be assigned to the higher level duties for more than six (6) consecutive months unless specifically approved by the City Manager for extenuating circumstances. The Union will be given notice when management anticipates that an employee will be performing the principal duties of a higher classification for a period of more than 30 days.

11.8.3 The out-of-class rate of pay shall apply for that time actually worked in the higher class. Periods of paid leave during the out-of-class assignment shall be compensated at the employee's normal rate of pay. Following a paid leave, the out-of-class pay shall resume on the first day returned, provided that the leave is for not more than fifteen (15) consecutive working days and the employee returns to the out-of-class assignment on the first day returned.

11.8.4 A position may be career developed up to a maximum of one (1) year.

- 11.9 License Fees: The Employer will pay all fees for certifications required by the City, including bonding and notary public licenses and required associated supplies (Notary Public Stamp, etc.)

12. Leave Benefits

12.1 *Paid Time Off (PTO)*

- 12.1.1 Employees shall accrue paid time off (PTO) in accordance with the schedule in Appendix B, to be used for vacation, illness or personal business.

Part-time employees assigned to a 0.50-0.90 FTE position will accrue PTO hours on a pro-rated basis to a pro-rated maximum.

Bereavement leave and military leave are separate categories as specified in 12.4 and 12.5 of this article, below.

- 12.1.2 Employees may begin using accrued PTO hours as soon as the hours are earned in said bank. PTO hours accrued in a pay period cannot be used in the same pay period in which time is earned, i.e. PTO hours accrued in the 1st through the 15th pay period cannot be used until the 16th through the end of the month pay period and so forth.

An employee shall be paid for all earned and accrued PTO hours, as outlined in Appendix B, at the employee's current rate of pay when he/she terminates employment, up to the number of hours denoted in Appendix B as "Maximum amount of payout at separation" for the applicable years of service. All leave time may be used in a minimum of 15-minute segments.

- 12.1.3 Guidelines on the scheduling of PTO are outlined in City Policy, and guidelines on the frequency and use of unscheduled PTO time will be established within individual divisions or departments.

12.2 *Grandfathered Sick Leave Cash Out*

Any employee hired before January 1, 1980, and retiring from the Employer with a bank of grandfathered sick leave, shall be paid a sum equal to 50 percent (50%) of his/her accrued and unused grandfathered sick leave.

12.3 *Paid Leave while on FMLA Leave*

If an employee is on authorized leave which qualifies as protected under applicable State and Federal leave laws, the employee shall use existing PTO, grandfathered sick leave, and/or compensatory time, with the choice of which category to draw on first at the employee's option.

12.4 *Bereavement Leave*

Employees are afforded necessary time, up to forty (40) hours (pro-rated based on FTE) of bereavement leave, when there is a death in an employee's immediate family.

Immediate family is defined as spouse, domestic partner, child, mother, father, brother, sister or step family, aunt, uncle, niece or nephew, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandparents and grandchildren, and grandparents and grandchildren of the spouse or member of the employee's household. It is understood that the policy extends to similar members of a domestic partner's family as detailed above.

The City reserves the right to require documentation of the death/or any other time taken related to a death.

If an employee is on approved leave of absence at the time of a death, they will be eligible for bereavement benefits if they are receiving at least 50% of their normal semi-monthly compensation from the City. Otherwise, the employee is not eligible for bereavement leave benefits.

Any observed holiday occurring during bereavement leave shall be paid as a holiday.

12.5 *Military Leave*

The Employer abides by the provisions of the laws of the State of Washington, RCW 38.40.060 and the Federal USERRA laws which stipulates that employees who are members of the National Guard or Federal Reserve Military Units are entitled to be absent from their duties for a period of up to twenty-one (21) days with pay during each military calendar year (October 1 through September 30) while engaged in the performance of ordered military duty and while going to or from such duty.

During periods of military conflict, an employee who is married to a military member of the US Armed Forces, National Guard or Reserves will be granted up to fifteen (15) days of unpaid leave before their deployment. Employees are eligible for this leave per deployment. The spouse must provide the Employer a copy of the member's orders.

12.6 *Family Leave – FMLA*

Under the terms of the Family and Medical Leave Act of 1993 (FMLA) and the state law, upon the completion of one (1) year of employment, any employee who has worked at least one thousand two hundred fifty (1,250) hours during the prior twelve (12) calendar months shall be entitled to up to twelve (12) weeks of leave in accordance with FMLA and based on a rolling twelve (12) month period, for specified family and medical reasons as required by FMLA, and the Washington Family Care Act.

12.7 *Pregnancy/Childbirth Disability Leave*

When required by Washington State law, the Employer will grant a leave of absence for the period of temporary disability because of pregnancy or childbirth.

13. Holidays

- 13.1 The following days are recognized as legal paid holidays for which time off are to be granted:

New Year's Day -- January 1
Martin Luther King's Birthday - Third Monday in January
President's Day -- Third Monday in February
Memorial Day -- Last Monday in May
Independence Day -- July 4
Labor Day -- First Monday in September
Veterans Day - November 11
Thanksgiving Day -- Fourth Thursday in November
The Day after Thanksgiving Day – Fourth Friday in November
Christmas Day -- December 25

- 13.2 Any of the above holidays which fall on a calendar Saturday shall be celebrated on the previous Friday; any of the above holidays which fall on a calendar Sunday shall be celebrated on the following Monday.

- 13.3 Any employee for whom a holiday falls on his/her normal day off shall be granted eight (8) hours into a holiday bank to use as time off in the future, after mutually agreed upon by the supervisor and the employee.

13.3.1 All accrued holiday bank time shall automatically be paid out each year, to the employee on the employee's January 10th pay check.

- 13.4 Any employee who is on medically authorized sick leave when a holiday occurs will receive eight (8) hours pay for that holiday and will not have his/her sick leave accrual charged.
- 13.5 Any employee who works on a city holiday, or its equivalent for shift personnel, shall be paid double his/her base rate for hours worked, plus pay for the holiday. Hours worked beyond eight (8) on the holiday shall be compensated at triple the employee's regular rate.

14. Employee Insurance

- 14.1 Employees covered by this agreement will be provided insurance benefits as follows:
- 14.2 Life Insurance Each employee shall receive a life insurance policy in an amount equal to 100% of the employee's annual salary, rounded to the next higher multiple of \$1,000. In addition, employees shall have the option of choosing dependent and/or additional life insurance on a payroll deduction basis.
- 14.3 Long Term Disability Regular full-time and half-time bargaining unit employees will be covered by a city-paid group long-term disability insurance policy.
- 14.4 Health Insurance
- A. Employees and their eligible dependents will have the option of selecting any combination of medical and dental coverage from the following:
 - a. Medical
 - i. HMO Plan
 - ii. HMO Plan – CDHP (Consumer Driven Health Plan)
 - iii. PPO Plan
 - iv. PPO Plan – CDHP (Consumer Driven Health Plan)
 - b. Dental
 - i. PPO Plan
 - ii. HMO Plan
 - B. Consumer Driven Health Plans (CDHP)
 - a. CDHP's will include a Health Savings Account (HSA).
 - i. The City will make a contribution to the Employee's HSA in the following amounts:
 - 1. Employee-only coverage - \$1,500
 - 2. Employee plus one or more dependents - \$3,000
 - b. Employees may also contribute pre-tax dollars to their HSA up to the limits allowed by law.
 - C. Premiums

Beginning January 1, 2018 and for the term of the contract the City contribution will increase up to 5% of any increasing premium costs.

- D. Opt Out Provision In addition, members have an opt-out/cash-back option for eligible employees upon certification of other group coverage.
- E. Flexible Spending Account (FSA)
 - a. For employees enrolled in a non-CDHP plan: Employees will have the option of participating in a FSA for reimbursable medical costs, dependent care costs, or premium sharing costs.
 - b. For employees enrolled in a CDHP plan: Employees will have the option of participating in a FSA for dependent care costs.

14.5 Dental Insurance

The City will pay 100% of the employee and eligible dependent cost for selected dental insurance for the term of this agreement.

- 14.6 All employee premiums will be paid using pre-tax dollars under the City's flexible benefits plan unless an employee notifies Human Resources and elects to waive payment through the flexible benefits plan.
- 14.7 It is understood that the type and level of benefits available from the City's health plan carriers may be changed from time to time by the carrier, and the City shall not have a duty or obligation to negotiate over such changes with the Union. Additionally, the City retains the right to change health plan providers as long as the new plan provides a comparable level of benefits as negotiated in this contract.
- 14.8 Medical and dental insurance premiums for regular part-time employees shall be paid by the Employer in the same portion as detailed in 14.4 above, and pro-rata, based on the employee's budgeted FTE (full-time equivalent).
- 14.9 The Labor-Management Insurance Committee will meet no less than annually to share information on benefits (including, but not limited to health, dental, life and long-term disability insurance). The City may also use this forum to gather feedback, ideas and alternatives to current plan offerings and/or designs as needed.

15. Fitness for Duty

The parties recognize that employees have the responsibility to report to work fit for duty.

- 15.1 To ensure physical and mental fitness, the employee may be required to provide to the Employer a fully completed certification from a medical and/or psychological provider on a City-provided form of the employee's fitness to perform the specific duties of their job or light duty alternative before returning to work.
- 15.2 The Employer also has the right to send employees for medical and/or psychological examinations at the City's expense for additional certification of fitness for duty whenever the Employer reasonably believes that the employee is not fit for duty or may be a danger to themselves or others.
- 15.3 The City shall comply with all applicable medical records confidentiality laws associated with any employee medical information.

16. Retirement Plan

- 16.1 All eligible employees and the Employer shall participate in the Washington Public Employees Retirement System (PERS) to the extent provided for by Washington state law.

17. Training Program

- 17.1 Training shall be scheduled by the Employer. Time spent in training shall be paid in compliance with the requirements of the Federal FLSA and applicable Washington State law. If the employee receives notification of essential certification requirements from the certifying agency, the employee has a responsibility to inform the Employer in a timely manner. City required safety and health trainings are not covered by this employee notification requirement.
- 17.2 Every effort will be made to schedule required training during on-duty time. Personnel may be scheduled and required to attend training outside of their normal shift.
- 17.3 Employees who desire tuition aid for specialized individual training or academic training may submit their request in accordance with City of Vancouver Policies and Procedures.
- 17.4 Any employee required to possess a certification for his/her position shall obtain such certification within the timeline established by the job announcement and/or offer letter, and shall maintain such certification during his/her tenure in such position. Failure to either obtain or maintain required certification(s) may be grounds for actions pursuant to Article 22 of this contract if the Employer has fulfilled their responsibility in accordance with subsections 17.1 and 17.2 above.

18. Clothing, Tools and Safety Equipment

- 18.1 The Employer shall purchase and replace such clothing, uniforms, and other equipment as designated by the department head, and shall make all necessary replacements as the need arises. All uniforms or equipment being replaced shall be returned to the Employer at the time of replacement.
- 18.2 Employees agree to maintain all clothing and equipment in good condition and not subject it to abuse beyond the regular call of duty.

19. Driver's Licenses

- 19.1 The parties recognize that the Federal Highway Administration (FHWA) has established regulations for employees required to have a Commercial Driver's license (CDL).

All employees in applicable positions are expected to obtain and maintain a commercial driver's license with such endorsement as necessary to operate vehicles assigned to their work unit.

Employees new to a position requiring a CDL shall be allowed up to six (6) months to obtain a CDL permit and up to one (1) year to obtain the license. Failure to either obtain or maintain the required CDL may be grounds for discipline up to and including termination of employment.

The City will provide:

- 19.1.1 An opportunity for each employee to develop the skill required to obtain the license.
- 19.1.2 Reimbursement for fees to obtain the license and endorsements, provided that if the employee incurs additional charges because he or she fails any part of the exam, those charges shall be the employee's responsibility.
- 19.1.3 The required medical/physical examination provided that, at the city option, the city may reimburse the employee for a physical examination by a physician of the Employer's choice. An employee wishing to use his or her own physician when the city offers a paid examination with its own physician will not be reimbursed for the examination.
- 19.1.4 Use of a city vehicle to take the practical/driving portion of the examination, on city time, provided that the city may require the employee to demonstrate proficiency in operating the vehicle in a trainee capacity before allowing the employee to use the vehicle in the driving test.

19.1.5 All employees required to maintain a Commercial Drivers' License shall be subject to all rules and regulations issued by the federal government including requirements for drug testing.

19.2 For those employees who must drive vehicles to carry out their job as determined by the Employer, if any employee has his/her driver's license (or CDL for those employees required to have a CDL) revoked or suspended for one hundred twenty (120) days or less, then the Employer will make a reasonable effort to reassign the employee to jobs not requiring driving. If such reassignment is not practical, the employee shall be suspended without pay. The employee may elect to take other appropriate available leave (accrued vacation or compensatory time) in lieu of suspension without pay. If the employee's driver's license (or CDL for those employees required to have CDL) is revoked or suspended for more than one hundred twenty (120) days, then the Employer shall make a reasonable effort to reassign the employee. If such reassignment is not practical, the employee shall be immediately discharged.

If an employee has been discharged from employment with the City for the loss of their required driver's license or CDL and is actively appealing the basis for the loss through the justice system, the City will consider them eligible for appointment to the next available position for which they are qualified if their appeal is successful and their required driver's license or CDL is reinstated within one year from the date of loss. An employee receiving an appointment to a position will return with the seniority and accrual rates that they had at the time they were discharged. Only employees who fit this specific criterion will be given this consideration.

19.3 Notwithstanding the provision of section 19.2 above, the Employer retains the right to pursue actions under Article 22 for inappropriate workplace behavior which results in their driver's license (or CDL for those employees required to have a CDL) being revoked or suspended.

19.4 If an employee in a job which requires a driver's license (or CDL for those employees required to have a CDL) has their license revoked or suspended for medical reasons, the Employer will make a reasonable effort to reassign the employee to duties which do not require a driver's license (or CDL for those employees required to have a CDL) and for which the employee is qualified. The Employer will not create work or a position to accommodate the employee. If the Employer is not able to find existing work to which the employee can be assigned, then the employee may be separated from employment in accordance with public laws, this contract and city policies.

20. Mileage Reimbursement, Parking Rates, and Commute Trip Reduction (CTR)

- 20.1 Mileage Reimbursement – Some jobs may require the use of an individual employee's automobile. In the event this is required by the Employer, it will pay the employee a mileage reimbursement at the rate established by the Internal Revenue Service.
- 20.2 Parking Rates – City employees who work in the downtown area pay for parking in City-owned or -operated lots or on permitted street spaces. The rates below are applicable to those employees who currently work downtown or who will work downtown in the future.

20.2.1 City-Owned or -Operated Lot Rates and On-Street Parking

With respect to all parking options, city employees will be expected to pay the prevailing parking rates.

20.2.3 Payment of Parking Fees

City work locations in the downtown area require employees to pay for parking should they want to park in a City-owned or -operated lot or in a permitted on-street parking space. Employees not currently paying parking fees because of their work location or commuting choice are subject to paying fees if their work location or commuting choice changes to one where parking fees are in effect. Conversely, employees who currently work in the downtown area and pay for parking will not be subject to that requirement should they relocate to an area where parking fees are not charged.

- 20.3 Commute Trip Reduction – The City participates in a Commute Trip Reduction (CTR) program and encourages employees to use alternate modes of transportation to get to and from work. For employees who use alternate modes of transportation for their work commute at least 60% of their scheduled work time (based on mandatory monthly self-reporting), the City will provide:
- a. a taxable cash incentive (\$25) for bicycling, walking, or carpooling to work; or
 - b. 100% of the cost of a bus pass; or
 - c. the option of a vanpool and will pay a variable amount (amount depends on the numbers of participants) to participating employees.

Incentives are currently available to all participating employees, regardless of their current work location.

Because the CTR program is funded at a specific level, should the demand for incentives exceed the annual budget availability, the City may have to reconfigure incentive amounts and participation parameters. Should that situation arise, the City will meet with the Union to discuss proposed changes.

21. Grievance Procedure

21.1 *Definition*

For purposes of this Agreement, the term "grievance" means any dispute between the Employer and the Union or an employee concerning the application or interpretation of the terms of this Agreement. If the grievance involves a disciplinary matter, either the employee or the employer may waive Step 1 of the grievance procedure under 21.2.

21.2 *Procedure*

Notwithstanding the grievance procedure listed below, the Employer and Union agree that it is in their mutual best interest to resolve disputes as early and informally as possible. Employees are encouraged but not required to first meet with their immediate supervisor. Every effort shall be made by both parties to reach an agreeable resolution promptly at each step of the grievance procedure.

Should a grievance be filed, the parties agree the grievance shall be submitted in accordance with the following steps: Any time limits stipulated in the grievance procedure may be extended for stated periods of time by the appropriate parties by mutual agreement in writing.

For each step of the grievance process, a written grievance shall be required to include the following information:

- a. Set forth the section(s) of the agreement allegedly violated and state the specific nature of the violation.
- b. Indicate the date(s) of the incident(s) grieved.
- c. Specify the remedy or solution to the grievance sought by the employee(s).
- d. Identify the grievant and be signed by the grievant.

21.2.1 Step 1: If a grievance is to be advanced under this procedure, the written grievance shall be presented by the employee to his/her immediate management representative (not covered by this Agreement) within ten (10) working days from the date the employee had knowledge or should have had knowledge of the alleged breach or violation of this Agreement.

The management representative (not covered by this Agreement) shall meet with the aggrieved employee and the Union steward within ten (10) working days of the management representative's receipt of the grievance. The parties agree to make every effort to settle the grievance promptly at this stage. Within ten (10) working days after such meeting, the management representative (not covered by this Agreement) shall

mail, email or hand deliver a copy of his/her decision to the aggrieved employee, the Union and the department head.

- 21.2.2 **Step 2:** Should the grievance remain unresolved at Step 1, the Union shall, within ten (10) working days after mailing, emailing or hand delivery of the Step 1 response, deliver an appeal of the Step 1 decision in writing to the department head.

The department head or their designee and management representative (not covered by this Agreement), shall convene a meeting with the aggrieved employee and Union representative within ten (10) working days of receipt of the written appeal. The department head shall make a decision on the matter within ten (10) working days of such meeting. Copies of the written decision shall be mailed, emailed or hand delivered to the aggrieved employee, the Union and the City Manager.

- 21.2.3 **Step 3:** Should the grievance remain unresolved after Step 2, the Union shall, in writing, deliver the appeal of the Step 2 decision to the City Manager or his/her designated representative (with a copy to the department head) within ten (10) working days after mailing, emailing or hand delivering of the decision reached in Step 2. The City Manager or his/her designee shall convene a meeting of the aggrieved, the Union representative, the department head, and other directly involved individuals as determined by the parties to be appropriate, within ten (10) working days of receipt of the written appeal and shall render his/her decision within ten (10) working days of such meeting with copies of the aggrieved employee, the Union and the department head.

- 21.2.4 The Union will attempt to explain to management why the grievance is still unresolved as it moves up the steps towards arbitration, but the explanation will not have merit as to the step advancement.

21.3 *Arbitration*

If the grievance remains unresolved after a decision is rendered in Step 3 above, it may be submitted by the Union to a mutually acceptable arbitrator as hereinafter provided. If the Union wishes to proceed to arbitration, such notice must be provided by the Union to the City Manager within fifteen (15) working days following the Union's receipt of the City Manager's decision as outlined in Step 3.

Should the grievance be submitted to arbitration, the parties shall mutually select a disinterested third party to serve as arbitrator. In the event the Employer and the Union are unable to agree on an arbitrator, the arbitrator shall be selected by the process of alternately striking from a panel of eleven (11) arbitrators from the Pacific Northwest region as furnished by the Public Employment Relations

Commission (PERC) or the Federal Mediation and Conciliation Service (FMCS) or other mutually agreed to similar organization. The Union shall strike the first name. The request for an arbitrator shall state the general nature of the issue. The city and the Union will jointly share the fee for selection and services of an arbitrator. Each party shall pay the fees and expenses of their own attorneys, representatives and witnesses.

The arbitrator shall render a decision as promptly as possible. The arbitrator shall consider and decide only the specific issue(s) submitted in writing by the Employer and/or the Union, and shall have no authority to make a decision on any other issue not so submitted. The arbitrator shall have jurisdiction and authority only to interpret, apply or determine compliance with the specific terms of the agreement and shall not have jurisdiction to add to, detract from, or alter in any way, the provisions of this Agreement.

A decision within the jurisdiction of the arbitrator shall be final and binding upon all parties. The parties shall abide by the award made in connection with any arbitral decision.

21.4 *Group Grievances*

A grievance that involves or affects a significant portion of the employees in the bargaining unit may be introduced by the Union in written form to the department head as set forth in Step 2 of the grievance procedure, and proceed as set forth there in.

21.5 *Time Restriction*

If the grievance is not filed or advanced in accordance with the time limits set forth within the procedure, the grievance shall be considered non-submitted or resolved on the basis of the Employer's last response. A grievance not responded to by the Employer within the prescribed time limits shall be granted, provided that the remedy sought conforms to the provisions of this agreement and applicable laws. The parties may mutually agree to extend the time limits for a given step for a specified period of time. All references to days in this article shall mean "working days" as in a normal work week of Monday through Friday.

22. Employee Discipline and Termination

22.1 The Employer may discipline or discharge any newly hired or rehired employee at any time during the initial probationary period, with or without cause, and such discipline or discharge shall not be subject to appeal.

22.2 The Employer may, in good faith for just cause, take disciplinary action by written reprimand, suspension, transfer, delay of step increase, demotion or discharge.

The degree of discipline administered shall depend on the severity of the infraction. Disciplinary action must be issued within thirty (30) calendar days after the Employer became aware of the offense, unless based on an extended pattern of performance or behavior. The thirty (30) calendar day timeline set forth herein may be extended upon mutual agreement between the Employer and the Union. Written reprimands may be grieved up to the City Manager or their designee, but not arbitration unless and until such time as such written reprimands are relied upon to support subsequent and timely discipline including suspension, transfer, delay of step increase, demotion or discharge.

- 22.3 The Employer shall not take any disciplinary action as defined in this section without giving the employee the right to have a Union representative present. If an employee(s) is requested to attend any meeting for the purpose of investigation, where such investigation may lead to discipline or discharge of that employee, that employee(s) will be informed of their right to have Union representation present before such meeting is to take place. The employee shall be provided a letter setting forth the reason(s) for such action at the time such action is taken or shortly thereafter.
- 22.4 Employees shall be given the opportunity to read and answer all disciplinary letters before placement of such material into their official personnel file maintained by Human Resources and will be requested to sign such letters. Signature thereon shall not be construed as admission of guilt or concurrence with the discipline, but rather an indication that the employee has seen and comprehends the gravity of the disciplinary action.
- 22.5 Copies of written reprimands and other disciplinary letters will be provided to the Union. Copies of written reprimands will be used to indicate trends of behavior which may lead to discipline and/or discharge.
- 22.6 Only management representatives who are not covered by this agreement may discipline employees above a written reprimand.

23. Performance Evaluations

- 23.1 Each employee's job performance shall be reviewed and evaluated at least annually.
- 23.2 Performance evaluations are not disciplinary and are not subject to the grievance procedure.
- 23.3 An employee may append his/her written comments to the performance evaluation report. Employee comments must be attached and submitted with the signed performance evaluation to human resources.

24. Non-Reduction of Wages and Working Conditions

- 24.1 The parties hereto agree that the wages and working conditions in effect and now being paid to and enjoyed by the members of the Union shall not be reduced in view of the provisions of this agreement; provided, nothing in this section shall be construed to limit in any way, the Employer's rights under Article 3., Rights of Management, above, or to make changes in current practices, provided: (1) Advance notice of the change is given to the Union and affected employees, and, (2) Reasonable opportunity is provided to discuss the change with the city.

25. Layoff, Recall, and Bumping

- 25.1 Layoff Procedure – Layoffs or reductions-in-full time equivalent (FTE) positions (including transfers for this purpose and reduction in hours) may be undertaken by the City due to budgetary reductions, organizational restructuring, lack of work, reduction or elimination of funds, material change in duties or organization, reduction in force or workload, or in the interests of economy or efficiency.
- 25.2 Alternatives to Layoff – The City will attempt to avoid layoffs and whenever possible to consider alternatives to layoffs before final decisions are made. At the discretion of the City, these considerations may include:
- 25.2.1 To avoid layoff an employee may transfer to a vacant position, if available. An employee may be eligible for a transfer provided that he/she meets the minimum qualifications for the job.
- 25.2.2 The City shall notify each employee subject to layoff of his/her rights and responsibilities as described in this Article. Such notification shall be reduced to writing and incorporated in each layoff notice the City issues to an employee subject to layoff.
- 25.3 After the City has identified the job classification, division (e.g. Streets, Water, Criminal, Civil), workgroup (e.g. Signals, Water Production) or program area (e.g. Street Lights, Hydrant Flushing, Aquatics, Fitness) being reduced, layoffs and resource reductions will be made in the following order:
- 25.3.1 Temporary or seasonal employees occupying regular classifications, Offender Service Crews, and newly hired probationary employees shall be laid off prior to regular status employees.
- 25.3.2 The order in which employees will be laid off shall be determined based on seniority as defined in 25.7 of this Article.
- 25.3.3 Any exception to this will be mutually agreed to by the Union and City.
- 25.4 When an employee is identified for a layoff or reduction-in-force, he/she shall be permitted to bump into a job or classification which he/she currently holds or has

previously held, provided that the employee meets the minimum qualifications for the job. If the employee is a Building Repair Specialist, the employee shall be permitted to bump into the Facilities Maintenance Specialist II classification provided that the employee meets the minimum qualifications for the job. In doing so, he/she may “bump” the least senior employee in that job or classification within the bargaining unit. Bumping may only occur within the same bargaining unit such as Operations Center, Recreation, or Law.

An employee who has been transferred pursuant to 25.2.1 or bumped into a new position as an alternative to layoff and who fails to perform the functions of the new position during probation will be placed on the reinstatement list. Such employees will only be eligible for reinstatement to the position from which they were originally laid off. Failure to pass probation for reasons other than performing the functions of the new position will result in termination in accordance with Article 22.

- 25.5 Notice to Union – Representatives of the City shall notify the Union within fifteen (15) working days after the City has officially determined that a layoff or reduction-in-FTE will affect any of the Union members. After such notification, the City agrees to meet with the Union, if requested, and to inform the Union of the details of the layoff and provide a current seniority list as well as any other relevant information. This meeting shall occur prior to notifying the employee(s) selected for reduction or elimination.
- 25.6 Notice to Employees – Each employee to be laid off or to have an FTE reduction shall be given at least thirty (30) calendar days’ notice of layoff, with a copy to the Union. Employees who remain may be assigned the additional duties of those lower classified positions that were laid off or reduced. Such a situation will not result in a decrease in pay or downward reclassification.
 - 25.6.1 Once the City had notified the affected employee of layoff and there is an available vacant position or a position for the employee to bump into, if any, he/she must notify Human Resources in writing of his/her intent to accept a vacant position or exercise bumping rights within ten (10) working days of the initial layoff notice. If notification is not received within the allotted time, rights to vacant positions or to bump shall be waived by the employee. The Employee will subsequently be placed on the reinstatement list.
- 25.7 Seniority – Seniority for the purposes of layoff, reduction, recall, and bumping shall be based upon City seniority for all members covered under this Agreement as of September 2, 2009. Thereafter, employees transferring or hired into any one of the bargaining units shall have seniority defined as the employee’s most recent date of hire into their respective bargaining unit. Should the seniority of any two or more employees be equal, the respective seniority rights of such employees

shall be determined by date of application, and if that is the same, the affected employees shall draw lots. Employee seniority shall not be reduced because of unpaid leave protected under state and federal regulations.

25.8 Recall – Employees who have been laid off, or transferred as an alternative to layoff, are eligible for recall for a period of thirty-six (36) months following the date of layoff or reduction in FTE. The names of persons laid off will be placed on one recall list. When a vacancy occurs in the same job classification for which there exists a recall list, the City will fill the vacancy using that list with the understanding that employees must meet the required minimum qualifications for the position to which they would be recalled into. If there is more than one employee on the recall list eligible for a vacancy in a particular job class, the City will use seniority as defined in Article 25.7 to determine who shall be offered recall. Recall notices will be sent by certified mail to the last address reflected in the employee's official personnel file.

25.8.1 When an employee is recalled within thirty-six (36) months to the job or classification from which they were laid off, they will be placed into the same step occupied at the time of the layoff and may serve an additional probationary period, if the job is significantly different than their previous job. Recalled employees will have their accrual rates restored to the same accrual rate as of the date of layoff.

25.8.2 Reinstatement. Employees who have been laid off and are in a recall status may also apply and be considered for job openings outside their job classification prior to or after layoff. Any employee who is offered a job other than the position from which they were laid off within thirty-six (36) months of their layoff will be treated as a new employee and will serve a new probationary period. Employees will also be placed into the salary schedule for the new position consistent with the applicable salary schedule or guidelines. Reinstated employees will have their accrual rates restored to the same accrual rate as of the date of layoff.

25.8.3 Once an employee on the recall list is offered recall, the employee must respond within fourteen (14) calendar days of the date of the notice, unless extended by mutual consent. The employee shall be responsible for notifying the Human Resources Department of any change in their address or telephone number, while on layoff status.

25.8.4 Benefit accrual and service credit will be discontinued while in a layoff status of thirty (30) or more days. However, upon recall or reinstatement, an employee's previous hire date will be maintained, but the employee's service date will be adjusted to deduct the time spent in a layoff status.

25.9 Eligibility for recall/reinstatement ends if:

25.9.1 An employee refuses to accept an offer of recall to a position in the same classification as that from which he/she was laid off.

25.9.2 An employee fails to respond to an offer of recall within fourteen (14) calendar days following the date the offer is mailed.

25.9.3. The employee requests in writing to be removed from the recall list.

25.9.4 The employee resigns or retires.

Definitions of Alternative to Layoff

- A. Transfer (moves laterally) – The movement from one position within a job classification to another position within the same classification or from one position to a position with a different classification in the same pay range. A transferred employee would be placed at the same step in the same range as the position that they transferred from. Terms and conditions of transfers are provided in Article 9.3.
- B. Demotion – The movement from a higher paid job classification to a lower paid job classification. An employee accepting a demotion may serve a probationary period, if the job is significantly different than their previous job, and would be placed at the top step of the lower job classification range or the step in the job classification range that provides the least amount of decrease in pay.

26. Contracting-Out/Out-Sourcing

- 26.1 Should the City contract-out or out-source work which is currently being performed by AFSCME Union employees, the City shall inform AFSCME and shall meet with AFSCME to impact bargain the effects.

27. Conflict of Contract and City Employment Policies

- 27.1 It is agreed that the intention of the parties to this agreement is that this agreement and all working agreements shall be consistent with the City employment policies and that where it is found that the provisions of such an agreement are in conflict with the City employment policies that the language of the agreement shall control.
- 27.2 Employees represented by this contract will be under the City's Employment Policy Manual. It is the intent that departmental rules shall be superseded by the City's Employment Policy Manual. If a situation occurs in which there is a difference between City rules/policies, and those of the department, Human

Resources will meet with the Union and the affected department to reach a mutually agreeable solution.

- 27.3 The City shall provide legal representation to an employee represented by this contract as may be reasonably necessary to defend a claim or lawsuit filed against such employee resulting from any conduct, act or omission of such employee performed or omitted on behalf of the City in his/her capacity as an employee which act or omission is within the scope of his/her service or employment with the City in accordance with the provisions of Vancouver Municipal Code Chapter 2.46.

The City shall inform the employee whether the employee shall be offered a defense. The City shall first provide an opportunity for the employee and the Union to meet in advance with the City Manager so that the employee and/or Union may provide the City Manager with any evidence or argument, whether verbally or in writing, before the City Manager may deny defense and/or indemnification to the employee under Chapter 2.46 VMC. Only the employee, City Manager, Union representative, Union attorney, or City Attorney (or designated legal advisor) may attend the meeting. If the City Manager grants defense and indemnification to the employee under chapter 2.46 VMC, no such meeting shall be required or held.

28. Separability Clause

- 28.1 If an article of this agreement should be held invalid by operation of law or by any tribunal of competent jurisdiction or if compliance with or enforcement of any article should be restrained by such tribunal, the remainder of this agreement shall not be affected thereby and the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement for such article.

29. Termination and Renewal

- 29.1 This agreement and all attachments hereto shall be in full force and effect from January 1, 2018 through December 31, 2020, and shall continue in effect if renewed or extended by mutual agreement.
- 29.2 Not less than one hundred twenty (120) days prior to the end of the contract, either party may notify the other in writing of its desire to terminate or modify the agreement; provided that an earlier commencement may be scheduled by mutual agreement.

30. Labor-Management Committee

- 30.1 An Operations Center-wide Labor-Management Committee currently exists. AFSCME has historically been represented on and participated in its meetings and will continue to do so.

A City Attorney Support Staff Labor-Management Committee also exists and meets to discuss internal labor-management issues specific to that workgroup.

Topics for the agenda will be shared at least one (1) week before the meeting. Issues not covered by the contract, clarification of contract issues, various surveys and committee work related to mandatory bargaining subjects and city employment policies shall be regular agenda items for this committee.

31. Temporary or Seasonal Workers

- 31.1 Temporary or seasonal worker for purposes of this contract shall mean one who is hired to work not more than 1,040 hours in any one specific classification in one specific department in any twelve (12) consecutive month period. Temporary workers will not be used for more than the 1,040 hour period. Exceptions to this policy shall be mutually agreed upon by the Employer and the Union. The Employer will not rotate temporaries through the same regular position(s).
- 31.2 The intended use of temporary or seasonal workers by the Employer is to cover seasonal workloads and to fill unexpected vacancies created by a sudden increased work load, to instruct classes and provide other services that do not require the use of regular staff, and to fill in as a result of termination or disabilities of regular employees. It is acknowledged that there will be exceptions to this policy. Exceptions to this policy shall be mutually agreed upon by the City and the Union.
- 31.3 The Employer will make all records of temporary or seasonal workers, the date they started, and total hours worked, available to the Union upon request.

32. Tobacco Free Work Environment

- 32.1 All city facilities, including city-owned buildings, vehicles, individual employee offices, and offices or other facilities rented or leased by the city will be tobacco free.

33. Contract Amendments

- 33.1 The parties agree that this Agreement may be amended in writing as agreed to by both parties without action of their respective legislative bodies, unless otherwise specified herein, including, but not limited to, amendment by Memorandum of Understanding or Memorandum of Agreement.

Dated this _____ day of _____, 2018.

For the Employer

For the Union

Eric Holmes, City Manager

Larry Clark, Business Agent
AFSCME, 307VC

Lenda Crawford Deputy City Manager

Dave McGrath, President,
AFSCME, 307VC

Kevin Battan, Vice-President,
AFSCME, 307VC

Yvonne Taylor, Executive Board,
AFSCME, 307VC
City Attorney's Office

Approved as to form:

E. Bronson Potter, City Attorney

James Fields, Executive Board
AFSCME, 307VC
Parks and Recreation

Attest:

Natasha Ramras, City Clerk

Appendix A - Classifications and Rates of Pay

Salary Schedule adjusted by 2% effective January 1, 2018

AFSCME 2018 Pay Ranges								
Range Number	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1	\$ 2,856	\$ 2,956	\$ 3,060	\$ 3,167	\$ 3,277	\$ 3,392	\$ 3,510	\$ 3,651
Recreation Coordinator A								
2	\$ 2,927	\$ 3,030	\$ 3,136	\$ 3,245	\$ 3,358	\$ 3,477	\$ 3,599	\$ 3,742
3	\$ 3,001	\$ 3,106	\$ 3,215	\$ 3,327	\$ 3,443	\$ 3,563	\$ 3,688	\$ 3,835
4	\$ 3,075	\$ 3,183	\$ 3,294	\$ 3,409	\$ 3,529	\$ 3,653	\$ 3,780	\$ 3,932
5	\$ 3,151	\$ 3,262	\$ 3,377	\$ 3,495	\$ 3,617	\$ 3,744	\$ 3,874	\$ 4,029
6	\$ 3,231	\$ 3,344	\$ 3,461	\$ 3,583	\$ 3,708	\$ 3,837	\$ 3,972	\$ 4,130
Warehouse Worker								
7	\$ 3,312	\$ 3,428	\$ 3,548	\$ 3,672	\$ 3,801	\$ 3,934	\$ 4,071	\$ 4,234
Legal Secretary								
8	\$ 3,395	\$ 3,513	\$ 3,637	\$ 3,764	\$ 3,895	\$ 4,032	\$ 4,173	\$ 4,340
9	\$ 3,480	\$ 3,602	\$ 3,727	\$ 3,858	\$ 3,992	\$ 4,132	\$ 4,277	\$ 4,449
Warehouse Technician								
10	\$ 3,566	\$ 3,691	\$ 3,820	\$ 3,955	\$ 4,093	\$ 4,237	\$ 4,384	\$ 4,559
Facilities Maintenance Specialist I Maintenance Worker I								
11	\$ 3,656	\$ 3,783	\$ 3,916	\$ 4,052	\$ 4,195	\$ 4,342	\$ 4,493	\$ 4,673
Recreation Coordinator B								
12	\$ 3,748	\$ 3,878	\$ 4,014	\$ 4,154	\$ 4,300	\$ 4,451	\$ 4,606	\$ 4,790
Street Light Technician I								
13	\$ 3,840	\$ 3,975	\$ 4,115	\$ 4,258	\$ 4,407	\$ 4,561	\$ 4,721	\$ 4,911
Maintenance Worker II Utility Locator								
14	\$ 3,937	\$ 4,074	\$ 4,217	\$ 4,364	\$ 4,517	\$ 4,676	\$ 4,839	\$ 5,032

15	\$ 4,035	\$ 4,176	\$ 4,322	\$ 4,474	\$ 4,630	\$ 4,792	\$ 4,960	\$ 5,158
16	\$ 4,136	\$ 4,281	\$ 4,431	\$ 4,585	\$ 4,745	\$ 4,913	\$ 5,084	\$ 5,288
Facilities Maintenance Specialist II Water System Operator								
Water Quality Assistant								
17	\$ 4,240	\$ 4,388	\$ 4,541	\$ 4,701	\$ 4,865	\$ 5,036	\$ 5,211	\$ 5,419
Administrative Assistant Chemical Specialist Inspector Lead Utility Locator Legal Assistant Maintenance Specialist Program Coordinator (Law) Warehouse Specialist								
18	\$ 4,346	\$ 4,498	\$ 4,655	\$ 4,818	\$ 4,987	\$ 5,160	\$ 5,341	\$ 5,556
Building Repair Specialist Street Light Technician II Water Quality Technician								
19	\$ 4,454	\$ 4,610	\$ 4,771	\$ 4,938	\$ 5,110	\$ 5,290	\$ 5,475	\$ 5,694
Lead Maintenance Worker Utility Maintenance Mechanic Utility Specialist								
20	\$ 4,565	\$ 4,725	\$ 4,890	\$ 5,062	\$ 5,239	\$ 5,422	\$ 5,612	\$ 5,837
21	\$ 4,680	\$ 4,843	\$ 5,013	\$ 5,188	\$ 5,370	\$ 5,558	\$ 5,751	\$ 5,982
Paralegal Recreation Coordinator C Rehabilitation Specialist Traffic Signal Technician								
22	\$ 4,796	\$ 4,965	\$ 5,139	\$ 5,317	\$ 5,505	\$ 5,696	\$ 5,896	\$ 6,132
Water Quality Coordinator Water Treatment Plant Operator								
23	\$ 4,917	\$ 5,089	\$ 5,267	\$ 5,451	\$ 5,641	\$ 5,839	\$ 6,044	\$ 6,285
Recreation Coordinator D								

24	\$ 5,040	\$ 5,216	\$ 5,399	\$ 5,587	\$ 5,783	\$ 5,985	\$ 6,195	\$ 6,442
25	\$ 5,165	\$ 5,347	\$ 5,533	\$ 5,727	\$ 5,927	\$ 6,135	\$ 6,350	\$ 6,603
Electrician HVAC Technician Investigator Lead Traffic Signal Technician Utility Electrician								
26	\$ 5,295	\$ 5,480	\$ 5,671	\$ 5,870	\$ 6,076	\$ 6,288	\$ 6,509	\$ 6,769
Lead Water Treatment Plant Operator SCADA Technician								
27	\$ 5,427	\$ 5,617	\$ 5,814	\$ 6,017	\$ 6,227	\$ 6,445	\$ 6,671	\$ 6,938
Traffic Signal Specialist Warehouse Supervisor								
28	\$ 5,563	\$ 5,758	\$ 5,958	\$ 6,166	\$ 6,383	\$ 6,607	\$ 6,838	\$ 7,111
Public Works Supervisor								
29	\$ 5,701	\$ 5,901	\$ 6,107	\$ 6,321	\$ 6,542	\$ 6,772	\$ 7,008	\$ 7,289
30	\$ 5,844	\$ 6,049	\$ 6,260	\$ 6,480	\$ 6,705	\$ 6,942	\$ 7,183	\$ 7,471
31	\$ 5,991	\$ 6,200	\$ 6,417	\$ 6,641	\$ 6,874	\$ 7,114	\$ 7,364	\$ 7,657
32	\$ 6,140	\$ 6,355	\$ 6,577	\$ 6,807	\$ 7,046	\$ 7,292	\$ 7,547	\$ 7,850

Salary Schedule adjusted by 2% effective January 1, 2019

AFSCME 2019 Pay Ranges								
Range Number	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1	\$ 2,913	\$ 3,015	\$ 3,121	\$ 3,230	\$ 3,343	\$ 3,460	\$ 3,580	\$ 3,724
Recreation Coordinator A								
2	\$ 2,986	\$ 3,091	\$ 3,199	\$ 3,310	\$ 3,425	\$ 3,547	\$ 3,671	\$ 3,817
3	\$ 3,061	\$ 3,168	\$ 3,279	\$ 3,394	\$ 3,512	\$ 3,634	\$ 3,762	\$ 3,912
4	\$ 3,137	\$ 3,247	\$ 3,360	\$ 3,477	\$ 3,600	\$ 3,726	\$ 3,856	\$ 4,011
5	\$ 3,214	\$ 3,327	\$ 3,445	\$ 3,565	\$ 3,689	\$ 3,819	\$ 3,951	\$ 4,110
6	\$ 3,296	\$ 3,411	\$ 3,530	\$ 3,655	\$ 3,782	\$ 3,914	\$ 4,051	\$ 4,213
Warehouse Worker								
7	\$ 3,378	\$ 3,497	\$ 3,619	\$ 3,745	\$ 3,877	\$ 4,013	\$ 4,152	\$ 4,319
Legal Secretary								
8	\$ 3,463	\$ 3,583	\$ 3,710	\$ 3,839	\$ 3,973	\$ 4,113	\$ 4,256	\$ 4,427
9	\$ 3,550	\$ 3,674	\$ 3,802	\$ 3,935	\$ 4,072	\$ 4,215	\$ 4,363	\$ 4,538
Warehouse Technician								
10	\$ 3,637	\$ 3,765	\$ 3,896	\$ 4,034	\$ 4,175	\$ 4,322	\$ 4,472	\$ 4,650
Facilities Maintenance Specialist I Maintenance Worker I								
11	\$ 3,729	\$ 3,859	\$ 3,994	\$ 4,133	\$ 4,279	\$ 4,429	\$ 4,583	\$ 4,766
Recreation Coordinator B								
12	\$ 3,823	\$ 3,956	\$ 4,094	\$ 4,237	\$ 4,386	\$ 4,540	\$ 4,698	\$ 4,886
Street Light Technician I								
13	\$ 3,917	\$ 4,055	\$ 4,197	\$ 4,343	\$ 4,495	\$ 4,652	\$ 4,815	\$ 5,009
Maintenance Worker II Utility Locator								
14	\$ 4,016	\$ 4,155	\$ 4,301	\$ 4,451	\$ 4,607	\$ 4,770	\$ 4,936	\$ 5,133
15	\$ 4,116	\$ 4,260	\$ 4,408	\$ 4,563	\$ 4,723	\$ 4,888	\$ 5,059	\$ 5,261
16	\$ 4,219	\$ 4,367	\$ 4,520	\$ 4,677	\$ 4,840	\$ 5,011	\$ 5,186	\$ 5,394

Facilities Maintenance Specialist II Water System Operator Water Quality Assistant								
17	\$ 4,325	\$ 4,476	\$ 4,632	\$ 4,795	\$ 4,962	\$ 5,137	\$ 5,315	\$ 5,527
Administrative Assistant Chemical Specialist Inspector Lead Utility Locator Legal Assistant Maintenance Specialist Program Coordinator (Law) Warehouse Specialist								
18	\$ 4,433	\$ 4,588	\$ 4,748	\$ 4,914	\$ 5,087	\$ 5,263	\$ 5,448	\$ 5,667
Building Repair Specialist Street Light Technician II Water Quality								
19	\$ 4,543	\$ 4,702	\$ 4,866	\$ 5,037	\$ 5,212	\$ 5,396	\$ 5,585	\$ 5,808
Lead Maintenance Worker Utility Maintenance Mechanic Utility Specialist								
20	\$ 4,656	\$ 4,820	\$ 4,988	\$ 5,163	\$ 5,344	\$ 5,530	\$ 5,724	\$ 5,954
21	\$ 4,774	\$ 4,940	\$ 5,113	\$ 5,292	\$ 5,477	\$ 5,669	\$ 5,866	\$ 6,102
Paralegal Recreation Coordinator C Rehabilitation Specialist Traffic Signal								
22	\$ 4,892	\$ 5,064	\$ 5,242	\$ 5,423	\$ 5,615	\$ 5,810	\$ 6,014	\$ 6,255
Water Quality Coordinator Water Treatment Plant Operator								
23	\$ 5,015	\$ 5,191	\$ 5,372	\$ 5,560	\$ 5,754	\$ 5,956	\$ 6,165	\$ 6,411
Recreation Coordinator D								
24	\$ 5,141	\$ 5,320	\$ 5,507	\$ 5,699	\$ 5,899	\$ 6,105	\$ 6,319	\$ 6,571
25	\$ 5,268	\$ 5,454	\$ 5,644	\$ 5,842	\$ 6,046	\$ 6,258	\$ 6,477	\$ 6,735
Electrician HVAC Technician Investigator Lead Traffic Signal Technician Utility Electrician								

26	\$ 5,401	\$ 5,590	\$ 5,784	\$ 5,987	\$ 6,198	\$ 6,414	\$ 6,639	\$ 6,904
Lead Water Treatment Plant Operator SCADA Technician								
27	\$ 5,536	\$ 5,729	\$ 5,930	\$ 6,137	\$ 6,352	\$ 6,574	\$ 6,804	\$ 7,077
Traffic Signal Specialist Warehouse Supervisor								
28	\$ 5,674	\$ 5,873	\$ 6,077	\$ 6,289	\$ 6,511	\$ 6,739	\$ 6,975	\$ 7,253
Public Works Supervisor								
29	\$ 5,815	\$ 6,019	\$ 6,229	\$ 6,447	\$ 6,673	\$ 6,907	\$ 7,148	\$ 7,435
30	\$ 5,961	\$ 6,170	\$ 6,385	\$ 6,610	\$ 6,839	\$ 7,081	\$ 7,327	\$ 7,620
31	\$ 6,111	\$ 6,324	\$ 6,545	\$ 6,774	\$ 7,011	\$ 7,256	\$ 7,511	\$ 7,810
32	\$ 6,263	\$ 6,482	\$ 6,709	\$ 6,943	\$ 7,187	\$ 7,438	\$ 7,698	\$ 8,007

Salary Schedule adjusted by 2% effective January 1, 2020

AFSCME 2020 Pay Ranges								
Range Number	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1	\$ 2,971	\$ 3,075	\$ 3,183	\$ 3,295	\$ 3,410	\$ 3,529	\$ 3,652	\$ 3,798
Recreation Coordinator A								
2	\$ 3,046	\$ 3,153	\$ 3,263	\$ 3,376	\$ 3,494	\$ 3,618	\$ 3,744	\$ 3,893
3	\$ 3,122	\$ 3,231	\$ 3,345	\$ 3,462	\$ 3,582	\$ 3,707	\$ 3,837	\$ 3,990
4	\$ 3,200	\$ 3,312	\$ 3,427	\$ 3,547	\$ 3,672	\$ 3,801	\$ 3,933	\$ 4,091
5	\$ 3,278	\$ 3,394	\$ 3,514	\$ 3,636	\$ 3,763	\$ 3,895	\$ 4,030	\$ 4,192
6	\$ 3,362	\$ 3,479	\$ 3,601	\$ 3,728	\$ 3,858	\$ 3,992	\$ 4,132	\$ 4,297
Warehouse Worker								
7	\$ 3,446	\$ 3,567	\$ 3,691	\$ 3,820	\$ 3,955	\$ 4,093	\$ 4,235	\$ 4,405
Legal Secretary								
8	\$ 3,532	\$ 3,655	\$ 3,784	\$ 3,916	\$ 4,052	\$ 4,195	\$ 4,341	\$ 4,516
9	\$ 3,621	\$ 3,747	\$ 3,878	\$ 4,014	\$ 4,153	\$ 4,299	\$ 4,450	\$ 4,629
Warehouse Technician								
10	\$ 3,710	\$ 3,840	\$ 3,974	\$ 4,115	\$ 4,259	\$ 4,408	\$ 4,561	\$ 4,743
Facilities Maintenance Specialist I Maintenance Worker I								
11	\$ 3,804	\$ 3,936	\$ 4,074	\$ 4,216	\$ 4,365	\$ 4,518	\$ 4,675	\$ 4,861
Recreation Coordinator B								
12	\$ 3,899	\$ 4,035	\$ 4,176	\$ 4,322	\$ 4,474	\$ 4,631	\$ 4,792	\$ 4,984
Street Light Technician I								
13	\$ 3,995	\$ 4,136	\$ 4,281	\$ 4,430	\$ 4,585	\$ 4,745	\$ 4,911	\$ 5,109
Maintenance Worker II Utility Locator								
14	\$ 4,096	\$ 4,238	\$ 4,387	\$ 4,540	\$ 4,699	\$ 4,865	\$ 5,035	\$ 5,236
15	\$ 4,198	\$ 4,345	\$ 4,496	\$ 4,654	\$ 4,817	\$ 4,986	\$ 5,160	\$ 5,366
16	\$ 4,303	\$ 4,454	\$ 4,610	\$ 4,771	\$ 4,937	\$ 5,111	\$ 5,290	\$ 5,502

Facilities Maintenance Specialist II Water System Operator Water Quality Assistant								
17	\$ 4,412	\$ 4,566	\$ 4,725	\$ 4,891	\$ 5,061	\$ 5,240	\$ 5,421	\$ 5,638
Administrative Assistant Chemical Specialist Inspector Lead Utility Locator Legal Assistant Maintenance Specialist Program Coordinator (Law) Warehouse Specialist								
18	\$ 4,522	\$ 4,680	\$ 4,843	\$ 5,012	\$ 5,189	\$ 5,368	\$ 5,557	\$ 5,780
Building Repair Specialist Street Light Technician II Water Quality								
19	\$ 4,634	\$ 4,796	\$ 4,963	\$ 5,138	\$ 5,316	\$ 5,504	\$ 5,697	\$ 5,924
Lead Maintenance Worker Utility Maintenance Mechanic Utility Specialist								
20	\$ 4,749	\$ 4,916	\$ 5,088	\$ 5,266	\$ 5,451	\$ 5,641	\$ 5,838	\$ 6,073
21	\$ 4,869	\$ 5,039	\$ 5,215	\$ 5,398	\$ 5,587	\$ 5,782	\$ 5,983	\$ 6,224
Paralegal Recreation Coordinator C Rehabilitation Specialist Traffic Signal								
22	\$ 4,990	\$ 5,165	\$ 5,347	\$ 5,531	\$ 5,727	\$ 5,926	\$ 6,134	\$ 6,380
Water Quality Coordinator Water Treatment Plant Operator								
23	\$ 5,115	\$ 5,295	\$ 5,479	\$ 5,671	\$ 5,869	\$ 6,075	\$ 6,288	\$ 6,539
Recreation Coordinator D								
24	\$ 5,244	\$ 5,426	\$ 5,617	\$ 5,813	\$ 6,017	\$ 6,227	\$ 6,445	\$ 6,702
25	\$ 5,373	\$ 5,563	\$ 5,757	\$ 5,959	\$ 6,167	\$ 6,383	\$ 6,607	\$ 6,870
Electrician HVAC Technician Investigator Lead Traffic Signal Technician Utility Electrician								

26	\$ 5,509	\$ 5,702	\$ 5,900	\$ 6,107	\$ 6,322	\$ 6,542	\$ 6,772	\$ 7,042
Lead Water Treatment Plant Operator SCADA Technician								
27	\$ 5,647	\$ 5,844	\$ 6,049	\$ 6,260	\$ 6,479	\$ 6,705	\$ 6,940	\$ 7,219
Traffic Signal Specialist Warehouse Supervisor								
28	\$ 5,787	\$ 5,990	\$ 6,199	\$ 6,415	\$ 6,641	\$ 6,874	\$ 7,115	\$ 7,398
Public Works Supervisor								
29	\$ 5,931	\$ 6,139	\$ 6,354	\$ 6,576	\$ 6,806	\$ 7,045	\$ 7,291	\$ 7,584
30	\$ 6,080	\$ 6,293	\$ 6,513	\$ 6,742	\$ 6,976	\$ 7,223	\$ 7,474	\$ 7,772
31	\$ 6,233	\$ 6,450	\$ 6,676	\$ 6,909	\$ 7,151	\$ 7,401	\$ 7,661	\$ 7,966
32	\$ 6,388	\$ 6,612	\$ 6,843	\$ 7,082	\$ 7,331	\$ 7,587	\$ 7,852	\$ 8,167

Appendix B- Paid Time Off (PTO) Accrual Schedule Effective October 1, 2015

Employee Paid Time Off (PTO) Accrual Schedule For employees hired before March 24, 2003 and after January 1, 1980						
During Year of Service	Hours Per Month	Days Per Year (Based on an 8 hour day)	Maximum Accumulation Hours / Days (Based on an 8 hour day) (Maximum amount of payout at separation)		Maximum Accumulation Hours / Days (Based on an 8 hour day)	
1-5	18.34	27.5	440	55	608	76
6-10	20.34	30.5	488	61	656	82
11-15	22.34	33.5	536	67	704	88
16-20	24.34	36.5	584	73	752	94
21+	26.34	39.5	632	79	800	100

Employee Paid Time Off (PTO) Accrual Schedule For employees hired on or after March 24, 2003						
During Year of Service	Hours Per Month	Days Per Year (Based on an 8 hour day)	Maximum Accumulation Hours / Days (Based on an 8 hour day) (Maximum amount of payout at separation)		Maximum Accumulation Hours / Days (Based on an 8 hour day)	
1-2	15	22.5	360	45	528	66
3-5	18.34	27.5	440	55	608	76
6-10	20.34	30.5	488	61	656	82
11-15	22.34	33.5	536	67	704	88
16-20	24.34	36.5	584	73	752	94
21+	26.34	39.5	632	79	800	100

Employee Vacation Accrual Schedule Employees hired before January 1, 1980						
During Year of Service	Hours Per Month	Days Per Year (Based on an 8 hour day)	Maximum Accumulation Hours / Days (Based on an 8 hour day) (Maximum amount of payout at separation)		Maximum Accumulation Hours / Days (Based on an 8 hour day)	
21+	28.34	42	680	85	848	106

AFSCME, Local 307VC
Addendum Agreement – City Attorney’s Office Support Staff
January 1, 2018-December 31, 2020

This addendum agreement, hereinafter referred to as the Addendum, is effective as of the date indicated herein and is effective for the term of the AFSCME, Local 307VC collective bargaining agreement that begins January 1, 2018, hereinafter referred to as the Agreement, and it is by and between the City of Vancouver, a municipal corporation of the State of Washington and hereinafter referred to as the Employer, and the Washington State Council and City Employees, AFSCME Local 307VC, hereinafter referred to as the Union.

The articles in this Addendum are applicable to AFSCME employees of the City Attorney’s Office, and they modify and supersede the corresponding articles in the Agreement. Articles and sub-articles in the Agreement that are not modified in the Addendum apply, in their entirety, to all AFSCME bargaining units and members.

1. Recognition and Bargaining Unit

The Employer hereby recognizes the Union as the sole exclusive bargaining agent for the purposes of establishing wages, hours, fringe benefits and working conditions for employees of the City within the City Attorney’s bargaining unit as described below:

All office clerical, technical, and support personnel in the City Attorney’s office of the City of Vancouver, excluding elected officials, City Attorney and professional employees.

7. Identification of Jobs

- 7.7 Acting of Out-Of-Class Assignments: When acting or out-of-class appointments are made to higher paying positions, preference shall be given on a rotation basis to qualified employees within the program area or division. The rotation list shall be by seniority. Employees must have one (1) year of service prior to consideration for placement in an acting position. When the most senior employee has been given an out-of-class appointment, the next appointment shall be given to the next lower person on the list. Employees on the list have the option of refusing the out-of-class assignment.

10. Work Week, Hours of Work, Shifts

10.5 Shift Assignments

From time to time, current work schedules may be temporarily changed to fill needs due to sick leave, military leave, or unanticipated absences. This could involve transferring an employee from one period of consecutive days to another. Such change will not be subject to provisions for premium pay on the first, second and third days, or the fourth day in the case of a five (5) day work schedule, provided that the following criteria are met:

10.5.1 Any time a work schedule is changed, it will consist of consecutive days of work.

10.5.2 Employees will be notified of the change at least twenty-four (24) hours in advance of the new work schedule.

10.5.3 The work schedule change shall be of a temporary nature, not to exceed thirty (30) days.

10.5.4 Employees may request work schedule changes, but the City shall assume no obligation for premium pay on the initial first, second, and third days, or the fourth day in the case of a five (5) day work schedule of the new shift.

10.5.5 A work schedule differential of \$2.00 per hour shall apply to regular work schedules that include a Saturday or Sunday.

10.6 Flexible Work Schedules – Applies to Employees of the City Attorney’s Office

The Union and the City mutually agree that staff of the City Attorney’s Office (CAO) covered under this agreement may flex their hours to accommodate issues arising from personal and/or work-related situations. Allowing staff to flex their hours across days, i.e. from one day to the next, may cause an employee to work more hours than their regular shift on one day while working fewer hours than their regular shift the next day. In the event an employee’s schedule is flexed from one day to the following day, the employee shall not be entitled to overtime pay as provided in Article 11.5.1 of this agreement. The City shall still be required to

comply with the overtime provisions of the Fair Labor Standards Act should an employee work more than forty (40) hours in the work week.

Requests for flex scheduling need to be scheduled within or reasonably close to regular business hours.

Requests for flex scheduling will be handled on a case by case basis and must be approved in advance by the employee's supervisor. No employee will be denied a flex scheduling request for arbitrary or capricious reasons.

11. Rates of Pay

11.5.1 Overtime and Callback Time

All scheduled overtime and/or callback time shall be offered on a seniority basis by program area or based on the needs of a particular case or project, starting with the most senior qualified person.

25. Layoff, Recall, and Bumping

- 25.4 When an employee is identified for a layoff or reduction in force, he/she shall be permitted to move into a vacant job or classification, within the same bargaining unit and division (Criminal or Civil), provided that the employee meets the minimum qualifications for the job. If an employee has served in both the Criminal and Civil divisions and is qualified, he/she may bump into either division. If there is no vacancy to move into, the employee may bump according to the progression below:
- a. The employee may bump the least senior employee in the division (or bargaining unit for those who qualify and have served in both divisions) in his/her same classification, provided that the bumping employee has more seniority.
 - b. If no opportunity exists in subparagraph a. (above), then the employee may bump the least senior employee in the division (or bargaining unit for those who qualify and have served in both divisions) in the next lowest classification, provided that the bumping employee has more seniority.
 - c. If no opportunities exist in subparagraphs a. or b. (above), then the employee may bump the least senior employee

in the division (or bargaining unit for those who qualify and have served in both divisions) in the classification lower than the next lowest, provided the bumping employee has more seniority.

- 25.5 In all cases of movement into vacant positions and bumping, the employee must be qualified to perform the new position's duties at the time of movement (i.e., the employee has the requisite license, certification and/or training and experience at the time of movement).

Bumping may only occur within the same division (or bargaining unit for qualified employees who have served in both divisions), and an employee is only eligible for one bump attempt, meaning if he/she is not qualified to bump according to the progression above, no other bumping options will be allowed.

An employee who bumps into a new position as an alternative to layoff and who fails to perform the functions of the new position during probation will be placed on the reinstatement list. Such employees will only be eligible for reinstatement to the position from which they were laid off. Failure to pass probation for reasons other than performing the functions of the new position will result in termination in accordance with Article 22.

Dated this _____ day of _____, 2018.

For the Employer

For the Union

Eric Holmes, City Manager

Larry Clark, Business Agent,
AFSCME, 307VC

Lenda Crawford, Deputy City Manager

Dave McGrath, President,
AFSCME, 307VC

Kevin Battan, Vice-President,
AFSCME, 307VC

Yvonne Taylor, Executive Board,
AFSCME, 307VC
City Attorney's Office

Approved as to form:

E. Bronson Potter, City Attorney

Attest:

Natasha Ramras, City Clerk

AFSCME, Local 307VC
Addendum Agreement – Recreation Division
January 1, 2018-December 31, 2020

This addendum agreement, hereinafter referred to as the Addendum, is effective as of the date indicated herein and is effective for the term of the AFSCME, Local 307VC collective bargaining agreement that begins January 1, 2018, hereinafter referred to as the Agreement, and it is by and between the City of Vancouver, a municipal corporation of the State of Washington and hereinafter referred to as the Employer, and the Washington State Council and City Employees, AFSCME Local 307VC, hereinafter referred to as the Union.

The articles in this Addendum are applicable to AFSCME employees of the Recreation Division, and they modify and supersede the corresponding articles in the Agreement. Articles and sub-articles in the Agreement that are not modified in the Addendum apply, in their entirety, to all AFSCME bargaining units and members.

1. Recognition and Bargaining Unit

The Employer hereby recognizes the Union as the sole and exclusive bargaining agent for the purposes of establishing wages, hours, fringe benefits and working conditions for employees of the City within the Recreation bargaining unit as described below:

All full-time and regular part-time employees of the Recreation Division of the City of Vancouver Parks and Recreation Department in the Firstenburg Community Center, Marshall Community Center, Luepke Senior Center and the Vancouver Tennis Center, excluding supervisors, confidential employees, Parks Division employees, customer service representatives, facilities assistants, field maintenance, support specialists and department aides.

7. Identification of Jobs

7.7 Acting or Out-Of-Class Assignments: When acting or out-of-class appointments are made to higher paying positions, preference shall be given to the most senior qualified (including all required certifications) employees the next lowest classification within the workgroup. (For example, the most senior qualified Recreation Specialist B would be appointed to an acting or out-of class assignment for a Recreation Specialist C provided he or she was within the same workgroup.) Employees must have one

(1) year of service prior to consideration for placement in an acting position.
Employees may refuse the out-of-class assignment.

10. Work Week, Hours of Work, Shifts

10.3.2 For the purposes of administering shift differential, shifts are defined as follows:

Day Shift: 6:00 a.m. to 5:00 p.m.

Swing Shift: 3:00 p.m. to 12:00 a.m.

Graveyard Shift: 10:00 p.m. to 6:00 a.m.

Not all day, swing, or graveyard shifts will be within the specific shift start and end times noted above; however, if more than 50% of a shift is scheduled (including a split shift – where an employee works part of the shift, has a multiple hour block off, and then returns for the balance of the shift) in either the swing or graveyard shift, it will be eligible for shift differential. Shift differential rates are detailed in article 11.6.

10.5 Shift Assignments

10.5.5 No work schedule differential shall apply to regular work schedules that include a Saturday or Sunday.

10.6 Flexible Work Schedules – Applies to Non-Exempt Employees of the Recreation Division

Non-exempt staff of the Recreation Division covered under this agreement may flex their hours to accommodate issues arising from personal and/or work-related situations. Allowing staff to flex their hours across days, i.e. from one day to the next, may cause an employee to work more hours than their regular shift on one day while working fewer hours than their regular shift the next day. In the event an employee's schedule is flexed from one day to the following day, the employee shall not be entitled to overtime pay as provided in Article 11.6.1 of this agreement. The City shall still be required to comply with the overtime provisions of the Fair Labor Standards Act should an employee work more than forty (40) hours in the work week.

Requests for flex scheduling need to be scheduled within or reasonably close to regular business hours.

Requests for flex scheduling will be handled on a case by case basis and must be approved in advance by the employee's supervisor. No employee will be denied a flex scheduling request for arbitrary or capricious reasons.

11. Rates of Pay

11.5.1 Overtime

All scheduled overtime and/or callback time shall be offered on a seniority basis by workgroup (e.g. aquatics, fitness, etc.), starting with the most senior qualified (including all required certifications) employee in the classification required to meet the overtime needs (e.g., overtime would not be given to a Recreation Specialist A who had more seniority than a Recreation Specialist B if the overtime required staffing at the Recreation Specialist B level).

11.6 Overtime and Compensatory Time for Recreation Coordinator C's and D's- effective August 1, 2015

- 11.6.1 As exempt employees, Recreation Coordinator C's and D's are accountable for personal time management and are not entitled to overtime under the FLSA. Exempt employees may flex their hours to accommodate issues arising from personal and/or work-related situations. All flexing of hours must be within the same pay period.
- 11.6.2 However, by mutual agreement of the employer and employee, and with supervisor approval, employees may be eligible to receive overtime compensation above their regularly scheduled hours on an hour-for-hour basis.
- 11.6.3 With prior supervisor approval, employees may be eligible for overtime pay for extraordinary hours worked beyond their regularly scheduled hours in the pay period.
- 11.6.4 Employees may accrue compensatory time off in lieu of overtime compensation. Compensatory time off shall be accumulated at the same rate as overtime compensation would have otherwise been paid (1:1). The maximum accrual shall be forty (40) hours. Employees will be allowed to use accrued compensatory time off by mutual agreement with their supervisor. In the event an employee is affected by layoff from their regular position the employer will payout the balance of the Employee's compensatory time balance at the employee's rate of pay at the time of layoff.

13.3 – 13.6 Holidays for Recreation Coordinators and Administrative Assistants

	Recreation Coordinators A & B and Administrative Assistants	Recreation Coordinators C & D
Not Working	8 hrs holiday*	8 hrs holiday*
Scheduled (with supervisor approval)	1 1/2 times for hours worked; and 8 hrs holiday*	Straight time for hours worked; and 8 hrs holiday*
Emergency Call-In	1 1/2 times for hours worked; and 8 hrs holiday*	1 1/2 times for hours worked; and 8 hrs holiday*

***pro-rated by FTE for part-time**

25. Layoff, Recall, and Bumping

25.4 When an employee is identified for a layoff or reduction in force, he/she shall be permitted to move into a vacant job or classification, within the same bargaining unit (Parks, Streets, Recreation), provided that the employee meets the minimum qualifications for the job. If there is no vacancy to move into, the employee may bump according to the progression below:

- a. The employee may bump the least senior employee in the bargaining unit in his/her same classification, provided that the bumping employee has more seniority (e.g. Recreation Coordinator D bumps a less senior Recreation Coordinator D) and also holds any required certifications.
- b. If no opportunity exists in subparagraph a. (above), then the employee may bump the least senior employee in the bargaining unit in the next lowest classification, provided that the bumping employee has more seniority (e.g. Recreation Coordinator D bumps the least senior Recreation Coordinator C) and also holds any required certifications.
- c. If no opportunities exist in subparagraphs a. or b. (above), then the employee may bump the least senior employee in the bargaining unit in the classification lower than the next lowest, provided the bumping employee has more seniority (e.g. Recreation Coordinator D bumps the least senior Recreation Specialist B) and also holds any required certifications.

Dated this _____ day of _____, 2018.

For the Employer

For the Union

Eric Holmes, City Manager

Larry Clark, Business Agent
AFSCME, 307VC

Lenda Crawford, Deputy City Manager

Dave McGrath, President,
AFSCME, 307VC

Kevin Battan, Vice-President,
AFSCME, 307VC

James Fields, Executive Board
AFSCME, 307VC
Parks and Recreation

Approved as to form:

E. Bronson Potter, City Attorney

Attest:

Natasha Ramras, City Clerk



Item #4.

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 7/2/2018

SUBJECT Appointment to the Urban Forestry Commission

Action Requested

Appoint Clifton Barnes and reappoint Susan Sanders to the Urban Forestry Commission, terms beginning immediately and expiring June 30, 2022.

Council Committee 1 (Hansen, Stober, Glover)

ATTACHMENTS:

- ▢ Appointment Memo



MEMORANDUM

DATE: July 2, 2018

TO: Mayor and City Councilmembers

FROM: Council Committee I (Glover, Hansen, Stober)

RE: **RECOMMENDATIONS FOR APPOINTMENT AND REAPPOINTMENT TO THE URBAN FORESTRY COMMISSION**

CC: Eric J. Holmes, City Manager
Michelle Bartley, Boards & Commissions

The Urban Forestry Commission was established for the purpose of managing, conserving and enhancing the existing trees located in the parks and public areas owned by the City of Vancouver and in public rights-of-way, and thereby enhancing the appearance of the city and protecting an important environmental and economic resource for the benefit of the city's residents and visitors, and for the purpose of assisting property owners and public agencies to improve and maintain trees in a manner consistent with adopted city policies.

Committee 1 had five (5) interviews for one (1) vacant position and reappointment. Committee 1 recommends appointing Clifton Barnes to a term beginning immediately and expiring June 30, 2022. Committee 1 also recommends reappointing Susan Sanders beginning immediately and expiring June 30, 2022.

If there are no objections, I would like to recommend making these appointments at the **Monday, July 2, 2018**, Council meeting.

Attachments:
Applications
Current Roster

VOUCHER APPROVAL

We, the undersigned council members of the City of Vancouver, Clark County, Washington, do hereby certify that the merchandise or services hereinafter specified have been received and that the vouchers listed below are approved for payment in the amount of:

\$ **5,447,064.07** this 2nd day of July 2018.

MAYOR



AUDITING OFFICER

COUNCILMEMBER

COUNCILMEMBER

DATE	INCLUSIVE CHECK NUMBERS	CHECK TOTAL
June 19 - June 25	Accounts Payable Checks (see attached)	\$ 2,620,794.36
June 19 - June 25	Visa Refunds (see attached)	\$ 4,615.60
June 19 - June 25	Payroll Checks (see attached)	\$ 2,821,654.11
TOTAL		\$ 5,447,064.07

INVOICE PAYMENTS REPORT

Check Number	Check Date	Amount	Vendor Name	Description
119604	19-Jun-2018	281,861.35	BLUE CROSS BLUE SHIELD OF OR	***WIRE*** BLUE CROSS WEEKLY CLAIMS, WEEK 2 OF JUNE
119605	19-Jun-2018	614.56	HEALTH SMART BENEFITS SOLUTIONS INC	***WIRE*** WEEKLY CLAIMS HEALTH SMART WEEK 2 OF JUNE
119606	20-Jun-2018	40,817.08	GALLAGHER BASSETT SERVICES INC	***WIRE*** WORKERS' COMP FUNDING / MESSAGE ID: 41157720
119608	25-Jun-2018	750.00	VANCOUVER FIRE COMMAND OFFICERS	***WIRE*** PAYROLL
119609	25-Jun-2018	11,445.26	ALLEGIANCE BENEFIT PLAN MANAGEMENT	***WIRE*** PAYROLL
119610	25-Jun-2018	25,369.65	VANCOUVER FIREFIGHTERS UNION HEALTH	***WIRE*** PAYROLL
119611	25-Jun-2018	75.00	HRA VEBA PLAN	***WIRE*** PAYROLL
119612	25-Jun-2018	20,735.39	ING	***WIRE*** PAYROLL
119613	25-Jun-2018	53,888.76	STATE OF WASHINGTON 457	***WIRE*** PAYROLL
119614	25-Jun-2018	21,025.00	WASHINGTON STATE FIREFIGHTERS	***WIRE*** PAYROLL
119615	25-Jun-2018	5,999.80	WASHINGTON SDU	***WIRE*** PAYROLL
119616	25-Jun-2018	6,343.38	ICMA 401A	***WIRE*** PAYROLL
119617	25-Jun-2018	147,378.77	ICMA CORP	***WIRE*** PAYROLL
119618	25-Jun-2018	153.52	OREGON SDU	***WIRE*** PAYROLL
119619	25-Jun-2018	11,832.50	WESTERN STATES HEALTH &	***WIRE*** PAYROLL
591997	20-Jun-2018	4,180.00	ACCENT BUSINESS SERVICES INC	ALI ZULFI - W/E 05/19/18 - INFO TECH - RECEIPT 134971 BY J SCHOESSLER PER E-MAIL
591998	20-Jun-2018	250.77	ADVANCE STORES CO INC	SUMMARY: CUST 071370 - PARTS FOR REPAIR AND MAINT - EQUIP SERVICES
591999	20-Jun-2018	7,311.58	ADVANCED BROADCAST SOLUTIONS	SO 13185 - 2018 ANNUAL HARDWARE ASSURANCE CONTRACTS/SOFTWARE MAINTENANCE - 13 TOTAL - MEDIA SERVICES
592000	20-Jun-2018	8.96	AIRGAS NOR PAC INC	PAYER 2363679 - SHIP TO 2335879 - COMPRESSED GAS - 05/16/18 - FIRE STATION 5
592001	20-Jun-2018	1,238.37	ALBINA FUEL	CUST 00-0076624 - ORDER NOT SPECIFIED - CSS-1 TACK OIL - 1.36 TON - OPS CENTER
592001	20-Jun-2018	819.50	ALBINA FUEL	CUST 00-0905782 - ORDER V281778 - CSS-1 TACK OIL - .9 TON - OPS CENTER
592002	20-Jun-2018	3,300.00	ALL TRAFFIC DATA SERVICES INC	PROJ 19166-VANCOUVER COUNTS - DATA COLLECTION SERVICES - THRU 05/22/18 - PLANNING
592003	20-Jun-2018	1,338.20	AMERIPRISE AUTO & HOME INSURANCE	LIABILITY SETTLEMENT RE: AMERIPRISE - DOL: 03/21/18 - RISK
592004	20-Jun-2018	225.62	ARAMARK UNIFORM SERVICES INC	SUMMARY: MAT/TOWEL CLEANING MAY18
592005	20-Jun-2018	211.38	ARBORSCAPE LTD INC	05/22/18 - TRIM FIR/PEAR TREES FOR CLEARANCE - WATER STATION 1 - OP CENTER
592006	20-Jun-2018	9,728.50	AT&T MOBILITY II LLC	ACCT #287256310986 - CELL PHONE WIRELESS CHARGES - 05/05/18-06/04/18 - OPS CENTER
592007	20-Jun-2018	3,227.13	BARRAN LIEBMAN LLP	SUMMARY: CLIENT 707505 - INVESTIGATION - VPD
592008	20-Jun-2018	1,090.75	BERGER ABAM INC	SUMMARY: PROJ A17.0026.00, PROJ A18.0064.00- CONSTRUCTION
592009	20-Jun-2018	160.73	BOBS ELECTRIC	PERMIT WITHDRAWN
592010	20-Jun-2018	1,643.05	BOUND TREE MEDICAL LLC	SUMMARY: ACCT 109894 - MEDICAL SUPPLIES - FIRE
592011	20-Jun-2018	2,363.01	BROADWAY INVESTORS LLC	JUL 18 COLUMBIA BANK PARKING
592012	20-Jun-2018	9,224.05	BROWN & WILSON PARTNERSHIP LLC	JUL 18 DOMESTIC VIOLENCE LEASE
592013	20-Jun-2018	9,646.49	CADMAN MATERIALS INC	CUST 9408272 - S/O 10066746 - PROD 92253 CSTC - 517.05 TON - OPS CENTER
592014	20-Jun-2018	214.15	Callahan, Loretta S	NACWA CONFERENCE
592015	20-Jun-2018	432.00	CAMAS SCHOOL DISTRICT #117	05/18/18 - SUBSTITUTE TEACHER CHARGES - C RUSH/R DRIVER/M WANG - 2018 WATERSHED CONGRESS - WREC
592016	20-Jun-2018	80.75	Catton, Gregory J. (Greg)	DT MASTER INSTRUCTOR SCHOOL
592017	20-Jun-2018	13,949.84	CENTURY WEST ENGINEERING CORP	PROJ 41004.010.02 - PEARSON FIELD AIRPORT EA - THRU 05/25/18 - CMO
592018	20-Jun-2018	100.00	CIMARRON NEIGHBORHOOD ASSN	2018 PARTICIPATION IN THE RESOURCE CONSERVATION CHALLENGE - SOLID WASTE
592019	20-Jun-2018	1,699.78	CINTAS CORP	ACCT 463-11151 - TOWEL CLEANING SERVICES - ALL 18MAR INVS ON 06/10/18 STMT - FIRE

*Please contact Procurement Services if you would like to review the justification for EMERGENCY procurement.

INVOICE PAYMENTS REPORT

Check Number	Check Date	Amount	Vendor Name	Description
592020	20-Jun-2018	11.63	CITY OF PORTLAND	ACCT 504443 - TELECOMM SERVICES - 18MAY - VPD
592021	20-Jun-2018	157,297.73	CLARK AND SONS EXCAVATING	LIESER HOMESITES SANITARY SEWER IMPROVEMENTS - EST 3 - THRU 05/25/18
592022	20-Jun-2018	480.00	CLARK COUNTY	CUST 1813 - 2018 RENTAL OF STORAGE UNITS 1 & 2 - CCSO PISTOL RANGE - VPD
592023	20-Jun-2018	2,861.32	CLARK COUNTY	CUST 1808 - INFO SERVICES FACILITY/NETWORK ADMINS/MAINTENANCE PROJECTS - 18APR - INFO TECH
592023	20-Jun-2018	200.00	CLARK COUNTY	CUST 1810 - PUBLIC UTILITY PERMITS - 17DEC - OPS CENTER
592023	20-Jun-2018	2,100.00	CLARK COUNTY	CUST 1813 - RANGE RENTAL - 18-FEB - VPD
592023	20-Jun-2018	500.00	CLARK COUNTY	CUST 1813 - RANGE RENTAL - 18APR - VPD
592023	20-Jun-2018	15.00	CLARK COUNTY	CUST 1817 - FINGERPRINTING SERVICES FOR EQUIP SERVICES - 18FEB - LAW
592023	20-Jun-2018	165.00	CLARK COUNTY	CUST 1817 - FINGERPRINTING SERVICES FOR FACILITIES - 18FEB - LAW
592023	20-Jun-2018	6,085.32	CLARK COUNTY	CUST 1827 - BILLING FOR FIRSTPASS REPORTING - 06/18/18-06/17/19 - FIRE
592024	20-Jun-2018	26,956.83	CLARK COUNTY	CUST 1814 - WHATLEY TIPPING FEE - 18APR - OP CENTER
592025	20-Jun-2018	50,000.00	CLARK COUNTY	CUST 1828 - COMMUNITY SERVICES-SAFE COMMUNITIES TASK FORCE INTERLOCAL AGREEMENT #2016-MH-75
592026	20-Jun-2018	216.80	CLARK COUNTY TITLE CO	ORDER CL10519 - LIMITED LIABILITY CERTIFICATE - PARCEL 035771-050 - 05/22/18 - CDD
592027	20-Jun-2018	600.00	CLARK COUNTY TITLE CO	RECONVEYANCE FOR: MASON; JOHNSON
592028	20-Jun-2018	254,271.12	CLARK PUBLIC UTILITIES	SUMMARY: ELECTRICITY
I				
592038				
592039	20-Jun-2018	25.00	CLINTON HOUSER	REF CITATION 7200407434
592040	20-Jun-2018	193.75	COLUMBIA LANGUAGE SERVICES INC	05/04/18 - TRANSLATION SERVICES - CDD - RECEIPT 135509 BY B THOMAS PER E-MAIL
592041	20-Jun-2018	657.08	COMCAST CABLE COMMUNICATIONS INC	SUMMARY: CABLE AND INTERNET SERVICES
I				
592045				
592046	20-Jun-2018	60.00	CRAIG MENDENHALL DBA AMERICAN SANI-CAN	04/23/18-05/20/18 - WEEKLY PUMPING SERVICES - CUSTOMER-OWNED UNIT - GREENWAY - OP CENTER
592046	20-Jun-2018	60.00	CRAIG MENDENHALL DBA AMERICAN SANI-CAN	04/23/18-05/20/18 - WEEKLY PUMPING SERVICES - CUSTOMER-OWNED UNIT - STREETS - OP CENTER
592047	20-Jun-2018	110.20	CROWN ELECTRIC	PERMIT WITHDRAWN
592048	20-Jun-2018	700.48	DATABAR INC	ORDER 46888 - #10 WINDOW ENVELOPES - CONSTRUCTION
592049	20-Jun-2018	55.00	DONALD HOLSINGER	REF CITATION 7200206296
592050	20-Jun-2018	2,894.40	EAGLE WEB PRESS	THE MESSENGER POSTAGE - 18JUL - MEDIA SERVICES
592051	20-Jun-2018	6,504.00	EARTHWORKS EXCAVATING	SCIP CONTRACTOR PMT - BRYAN (617 SE 110TH AVE)
592052	20-Jun-2018	1,305.13	ENTEK CORPORATION	PERMIT WITHDRAWN S/B MPE
592053	20-Jun-2018	5,676.75	ESIX SPORTSWEAR INC	PORT & COMPANY UNIFORMS/PROTECTIVE CLOTHING - OP CENTER
592054	20-Jun-2018	8,236.87	ESTHER SHORT COMMONS LLP	JUL 18 ESTHER SHORT RETAIL SPACE
592055	20-Jun-2018	13,827.42	EXCEL INDUSTRIES INC DBA HUSTLER TURF EQUIPMENT	Z MOWER PLUS ACCESSORIES - REPLACES 4097 - EQUIP SERVICES
592056	20-Jun-2018	17,615.24	FIRE SYSTEMS WEST	SUMMARY: SPRINKLER AND FIRE SYSTEM REPAIRS
592057	20-Jun-2018	250.00	FIRST AMERICAN TITLE INS CO	RECONVEYANCE FOR: SCHOFIELD GROUP LLC
592058	20-Jun-2018	8,868.13	FOLEY & MANSFIELD PLLP	MATTER ID 016821-000001 - PROJ 922299 - LEGAL SERVICES RE: C MURRAY V COV - THRU 05/31/18 - DOL: 04/20/15 - INVOKE VMC 3.05.200(2) - RISK
592059	20-Jun-2018	40.69	FRONTIER COMMUNICATIONS	ACCT 253-007-9377-072604-5 - 06/10/18-07/09/18 - FISHERS GROVE LIFT STATION
592060	20-Jun-2018	734.03	GALLS LLC	ACCT 1001096190 - FIRE UNIFORM - FIRE

INVOICE PAYMENTS REPORT

Check Number	Check Date	Amount	Vendor Name	Description
592061	20-Jun-2018	8,102.00	GEARGRID	CUST 01-0001060 - SO 0021719 - RACK SYSTEM/HARDWARE - SHIPPED 05/25/18 - FIRE
592062	20-Jun-2018	866.66	GENUINE PARTS COMPANY	SUMMARY: CUST 7970 - 18MAY - PARTS FOR SHOP, VEHICLE, EQUIPMENT REPAIRS
592063	20-Jun-2018	500.00	GEO JOBE GIS CONSULTING	2018 ANNUAL FEE - ADMIN TOOLS FOR ARCGIS ONLINE PRO - INFO TECH
592064	20-Jun-2018	39,257.40	GGLO LLC	PROJ 2018013.01 - CREATE HEIGHTS SUBAREA PLAN - THRU 04/30/18 - LRP - RECEIPT 135308 BY B THOMAS PER E-MAIL
592065	20-Jun-2018	72.50	Gilbertson, Julie J	AOR CONFERENCE - POST TRAVEL
592065	20-Jun-2018	52.50	Gilbertson, Julie J	POST TRAVEL WSRA CONFERENCE
592066	20-Jun-2018	175.29	Gilbride, Patrick Dennis	ROUND TRIP MILEAGE FOR STATE IT MASTER PURCHASING AGREEMENTS MEETING IN OLYMPIA, 6/14/18 - POST TRAVEL
592067	20-Jun-2018	20.00	GLORIA PAPPAS	REF ALARMS
592068	20-Jun-2018	839.60	GORDON TRUCK CENTERS	CUST 96056 - 18MAY - PARTS FOR VEHICLE AND EQUIPMENT REPAIR - EQUIP SERVICES
592069	20-Jun-2018	5,505.00	GUSTAVS PUB AND GRILL	REF BUS LIC
592070	20-Jun-2018	3,768.00	H&H WOOD RECYCLERS INC	ACCT 10-000006C - 05/0/18-05/15/18 - YARD DEBRIS DISPOSAL - MP ENG - RECEIPT 135173 BY L JONES
592071	20-Jun-2018	74,412.26	HALBERT CONSTRUCTION LLC	SUMMARY: FIRSTENBURG RESOURCES CLIMBING WALL FLOORS
592072	20-Jun-2018	35.00	HARRY S BOWER	REF CIT 7200803894
592073	20-Jun-2018	595.12	HARRYS KEY SERVICE INC	SERVICE CALL - TROUBLESHOOT TORMAX OPERATOR REPLACEMENT - FIRSTENBURG COMM CTR - 700 NE 136TH AVE - THRU 05/22/18 - OP CENTER
592074	20-Jun-2018	57.75	Henderson, Marshall Scott	RILEA 2018
592075	20-Jun-2018	7,995.79	HERRERA ENVIRONMENTAL CONSULTANTS	PROJ 17-06550-000 - VANCOUVER WATERSHED HEALTH ASSESSMENT - THRU 04/27/18 - MP ENG - RECEIPT 134981 BY L JONES
592076	20-Jun-2018	577.61	INDUSTRIAL SCIENTIFIC CORP	CUST 106747 - ORDER US000111666 - INET GAS MONITORING SUBSCRIPTION - 04/23/18-05/22/18 - OP CENTER - RECEIPT 135126 BY P NEWTON PER E-MAIL
592077	20-Jun-2018	3,517.99	INTERIOR OFFICE SOLUTIONS	SUMMARY: FURNITURE - PRODUCT/DELIVERY/INSTALLATION
592078	20-Jun-2018	1,750.00	INTERNATIONAL ASSN OF CHIEFS OF POLICE	ACCT 1377 - 2018 ANNUAL IACP NET SERVICE ACCESS - 06/20/18-06/19/19 - VPD
592079	20-Jun-2018	25.00	ISAI MACIAS	REF CITATION 7200408004
592080	20-Jun-2018	375.00	J DAVID SPRAKER	WORKFLOW CONSULTING/CONFIGURATION - THRU 05/26/18 - MEDIA SERVICES
592081	20-Jun-2018	378.21	J2 BLUEPRINT SUPPLY CO	ACCT C019 - CONTRACT CN10213-02 - OCE COLORWAVE 300 - SER 330400748 - 05/01/18-05/31/18 - MP ENG - RECEIPT 134979 BY H VASKELIS PER E-MAIL
592082	20-Jun-2018	74.19	JAMES WELCH	REF COV06310
592082	20-Jun-2018	274.19	JAMES WELCH	REF PKG PERMIT COV 05452
592083	20-Jun-2018	7,630.41	JANUS YOUTH PROGRAMS	SUMMARY: CASE MANAGEMENT - 18MAY - CDBG & HOME FUNDING
592084	20-Jun-2018	3,750.00	JCI JONES CHEMICALS INC	ORDER 557893 - CHLORINE 150 LB CYLINDERS - 15 EA - OP CENTER
592085	20-Jun-2018	57.75	Junker, Ryan William	RILEA 2018
592085	20-Jun-2018	103.50	Junker, Ryan William	SWAT LAND NAV. TRNG
592086	20-Jun-2018	537.23	K F JACOBSEN & CO INC	ACCT 13866 - FINE MIX ASPHALT - 7.08 TON - OPS CENTER
592087	20-Jun-2018	61.42	Kandoll, Wesley L	CLOTHING ALLOWANCE REIMBURSEMENT FOR WES KANDOLL
592088	20-Jun-2018	1,320.03	KELLY SERVICES INC	SCHMID, L - ORDER A2342 - W/E 06/10/18 - IT
592089	20-Jun-2018	6,659.58	KIRK SMITH DBA MODERN TACTICAL SERVICES	05/21/18-05/23/18 - 3-DAY COURSE TRAINING - MFF SQUAD LEADERS CRITICAL DECISION MAKING & MATERIALS/TRAVEL EXPENSES - VPD - RECEIPT 135259 BY C WRIGHT PER E-MAIL
592090	20-Jun-2018	6,939.20	KITTELSON & ASSOC INC	PROJ 198940 - VANCOUVER TRAFFIC ON CALL - THRU 04/30/18 - FACILITIES - RECEIPT 135021 BY H VASKELIS
592091	20-Jun-2018	1,991.11	KRONOS INCORPORATED	SUMMARY: MONTHLY USAGE - 18APR - INFO TECH - BY J SCHOESSLER PER E-MAIL

INVOICE PAYMENTS REPORT

Check Number	Check Date	Amount	Vendor Name	Description
592092	20-Jun-2018	57.13	Lackey, Michael Alan	PROPANE TANK REIMBURSEMENT
592093	20-Jun-2018	27,368.54	LAKESIDE INDUSTRIES	JOB 1 - ASPHALT - ORCHARDS ASPHALT SALES - 467.55 TON - THRU 05/24/18 - OPS CENTER
592094	20-Jun-2018	6,644.11	LAKEYLAND DBA NORTHWEST SAFETYCLEAN	NFPA ADVANCED CLEANING/REPAIRS/GENERAL REPAIRS - FIRE
592095	20-Jun-2018	91.55	LANGLEYS TOWING	TOWING - '03 CHEV MALIBU - LIC AVY6902 - FROM 32ND ST @ ST JOHNS TO WEST PRECINCT - CASE 7734 - VPD
592095	20-Jun-2018	91.55	LANGLEYS TOWING	TOWING - '18 SUBARU IMPREZA - LIC 499-KHV - FROM 7407 NE VAN PLAZA TO WEST PRECINCT - CASE 7598 - VPD
592096	20-Jun-2018	4.88	LEXIS NEXIS RISK DATA MANAGEMENT INC	ACCT 1130110 - REPORTS/SEARCHES - 18MAY - CODE ENFORCEMENT - RECEIPT 135420 BY B THOMAS PER E-MAIL
592097	20-Jun-2018	5,105.64	LOCUTION SYSTEMS INC	CUST VANCWA - 2018-2019 ANNUAL MAINTENANCE - CADVOICE STATION SYSTEMS - 10 UNITS - 05/16/18-05/15/19 - INFO TECH - RECEIPT 135223 BY J SCHOESSLER PER E-MAIL
592098	20-Jun-2018	63,500.26	MACKAY & SPOSITO INC	SUMMARY: TRANSPORTATION MAY18 - BY L PETERSEN PER E-MAIL
592099	20-Jun-2018	100.00	MARRION NEIGHBORHOOD ASSOCIATION	2018 PARTICIPATION IN RESOURCE CONSERVATION CHALLENGE - SOLID WASTE
592100	20-Jun-2018	194.57	McConaghy, Richard Dene	ATTEND AOR CONFERENCE 2018 - POST TRAVEL
592101	20-Jun-2018	57.53	McFARLANES BARK INC	TRANSACTION 117572 - 18MAY - YARD DEBRIS DISPOSAL - COUPON PROGRAM - SOLID WASTE
592102	20-Jun-2018	6,951.99	MISCELLANEOUS	SUMMARY: CITY UTILITIES REFUNDS, PARKS REFUNDS & OTHER MISC REFUNDS
592129				
592130	20-Jun-2018	1,470.00	MOTUS RECRUITING & STAFFING INTL	MOORE ALAN - W/E 05/20/18 - PAYROLL WORK DAY PROJ
592131	20-Jun-2018	1,592.09	MUNICIPAL EMERGENCY SERVICES INC	CUST C38471 - PAC II STYLE HOOD IN NOMEX - FIRE
592131	20-Jun-2018	9,088.80	MUNICIPAL EMERGENCY SERVICES INC	CUST C63793 - POINT BLANK AXIIA AND ACCESSORIES - VPD
592132	20-Jun-2018	119.17	MUNNELL AND SHERRILL INC	CUST 3363 - DOC 005478 - SHOP SUPPLIES - EQUIP SERVICES
592132	20-Jun-2018	1,443.89	MUNNELL AND SHERRILL INC	CUST 3364 - DOC 005485 - OPERATING SUPPLIES - WAREHOUSE
592133	20-Jun-2018	7,037.50	MWA ARCHITECTS INC	PROJ 201815.00 - DAY USE CENTER - THRU 04/30/18 - CDD
592134	20-Jun-2018	500.00	NAGRA & ATWAL CORPORATION	JUL 18 OPS PARKING LEASE
592135	20-Jun-2018	168.50	Naray, Tibor K	BLEEA; APRIL 16-27
592136	20-Jun-2018	4,178.05	NATIONAL PARK SERVICE	JUL 18 PEARSON AIR PARK LEASE
592137	20-Jun-2018	215.75	Nguyen, Chieu N	IACIS TRAINING APRIL/MAY 2018
592138	20-Jun-2018	100.00	NORTHCREST NEIGHBORHOOD ASSN	2018 PARTICIPATION IN RESOURCE CONSERVATION CHALLENGE - SOLID WASTE
592139	20-Jun-2018	71.06	NORTHWEST CASCADE INC DBA HONEY BUCKET	SUMMARY: ACCT 014800, 015153 - PORTA POTTY RENTALS
592140	20-Jun-2018	12,005.30	NORTHWEST LANDCARE	SCIP CONTRACTOR PMT - HAACKER (2909 NE 127TH AVE)
592141	20-Jun-2018	1,716.48	NORTHWEST STAFFING RESOURCES	CITY WIDE TEMPORARY SERVICES - W/E 05/20/18
592141	20-Jun-2018	6,403.48	NORTHWEST STAFFING RESOURCES	CITY WIDE TEMPORARY SERVICES - W/E 05/27/18
592142	20-Jun-2018	344.68	Nott, Cyler Lee	WSIA WWCP TRAINING SEATTLE WA MAY 21-23 2018
592143	20-Jun-2018	400,741.84	NUTTER CORP	PREMIER ACRES SANITARY SEWER IMPROVEMENTS - EST 3 - THRU 05/25/18
592144	20-Jun-2018	184.76	NW NATURAL	ACCT 1640094-7 - GAS USAGE 05/14/18-06/13/18 - VPD EAST
592145	20-Jun-2018	22.50	ODOT DMV SERVICES	ACCT 83313 - VEHICLE TITLE HISTORY - THRU 05/31/18 - VPD
592146	20-Jun-2018	94.85	ORCHARDS TOWING	05/19/18 - TOWING - '03 DODGE CARAVAN - LIC 384-JZX - FROM 1712 SE 125TH AVE TO EVIDENCE - VPD
592147	20-Jun-2018	57.75	Pardue, William E	RILEA 2018
592148	20-Jun-2018	52.10	PARKMOBILE USA INC	CUST 832027 - 18APR - END USER FEES - PARKING
592149	20-Jun-2018	336,181.32	PEASE CONSTRUCTION INC	WEST VANCOUVER BARRACKS REDEVELOPMENT - RETAINAGE RELEASE

INVOICE PAYMENTS REPORT

Check Number	Check Date	Amount	Vendor Name	Description
592150	20-Jun-2018	1,379.82	PETTY CASH CUSTODIAN	SUMMARY: PETTY CASH REPLENISHMENTS
592153				
592154	20-Jun-2018	1,050.40	PHYSIO CONTROL INC	ACCT 07176401 - SO S3877082-00 - 4-WIRE LIMB CBL - 3 EA - SHIPPED 04/18/18 - FIRE - RECEIPT 135484 BY C NELSON PER E-MAIL
592154	20-Jun-2018	681.84	PHYSIO CONTROL INC	ACCT 07176401 - SO S3881049-00 - RAINBOW R20-L PEDDISP SNSRS - 1 EA - SHIPPED 05/05/18 - FIRE - RECEIPT 135484 BY C NELSON PER E-MAIL
592155	20-Jun-2018	1,190.00	PORTLAND ADVENTIST MEDICAL CENTER	18MAY - MEDICAL TESTING SERVICES - VPD
592156	20-Jun-2018	1,794.03	PORTLAND MECHANICAL CONSTRUCTION INC	HYDROJET/VIDEO INSPECTION SERVICES - FIRE STATION 8 - 213 NE 120TH AVE - THRU 04/27/18 - OP CENTER - RECEIPT 135279 BY P NEWTON PER E-MAIL
592157	20-Jun-2018	568.99	POTTER WEBSTER CO	SUMMARY: PARTS FOR VEHICLE REPAIR AND EQUIPMENT - EQUIP SERVICES
592158	20-Jun-2018	124.73	PRAXAIR DISTRIBUTION INC	CUST 73769060 - CO2 LIQUID BULK TANK 450# - THRU 05/23/18 - PARKS & REC FCC
592158	20-Jun-2018	66.25	PRAXAIR DISTRIBUTION INC	CUST 83600654 - CO2 LIQUID BULK TANK 460# - THRU 05/23/18 - PARKS & REC FCC
592159	20-Jun-2018	40.00	PROFESSIONAL CREDIT SERVICE	REF ALARMS
592159	20-Jun-2018	50.00	PROFESSIONAL CREDIT SERVICE	REF CIT 7200803521
592160	20-Jun-2018	238.50	RICHARD HEPPER	18MAY - WEEK 1 - SENIOR MESSENGER DELIVERY - MEDIA SERVICES
592161	20-Jun-2018	3,720.00	ROBERT HALF INTERNATIONAL	CUST 03660-000152000 - SHICK DAVID - W/E 05/18/18 - FINANCE
592162	20-Jun-2018	25.00	RONALD BETTS	REF CITATION 7201200875
592163	20-Jun-2018	50.00	RONALD HILL	REF CITATION 7201200924
592164	20-Jun-2018	600.00	ROTSCHY INC	ASPHALT IN, VAC TRUCK DUMP, FILL CLASS S
592164	20-Jun-2018	846.00	ROTSCHY INC	FILL CLASS S, VAC TRUCK DUMP
592165	20-Jun-2018	12.54	Scharff, Thomas P.U.	FOURTH PLAIN FORWARD IMPLEMENTATION
592166	20-Jun-2018	85.10	Scherer, Eva Ellen	JANUARY-JUNE
592167	20-Jun-2018	160.29	Schetky, Jonathan Christopher	ATTEND 2018 NADCP CONFERENCE (AS A SPEAKER)
592168	20-Jun-2018	218.45	SERVICEMASTER OF VANCOUVER	05/2318 - BIO-HAZARD CLEAN-UP - 13TH & KING - OP CENTER
592169	20-Jun-2018	13,323.00	SHARE INC	18MAY - SHARE HOUSE - SOLID WASTE SERVICE/SUPPLIES - SOLID WASTE
592169	20-Jun-2018	29,485.63	SHARE INC	PROJ 411004 - DAY CENTER STAFFING - CDBG FUNDING
592169	20-Jun-2018	3,861.54	SHARE INC	PROJ 414738 - ASPIRE HOUSING SERVICES - 18MAY - CDBG FUNDING
592169	20-Jun-2018	5,124.68	SHARE INC	PROJ 601705 - ASPIRE RENT ASSIST TBRA - 18MAY - HOME FUNDING
592170	20-Jun-2018	291.94	Sheehan, Peggy A.	ATTEND PAT 6/6/2018 SEATTLE MTG
592170	20-Jun-2018	302.26	Sheehan, Peggy A.	LOW INCOME HOUSING ALLIANCE YAKIMA WA
592171	20-Jun-2018	200.00	SHELDON WONG	05/27/18 - SUNDAY DANCE - MUSICAL ENTERTAINMENT - PARKS
592172	20-Jun-2018	66.88	SMART CHOICE HEATING AND COOLING	PERMIT NOT REQUIRED FROM CITY
592173	20-Jun-2018	1,171.15	Smithline, Kevin Charles	NACWA PRETREATMENT CONFERENCE - POST TRAVEL
592174	20-Jun-2018	31,185.00	SOUTHWEST WA HUMANE SOCIETY	CUST COV001 - MONTHLY ANIMAL CONTROL SERVICES - 18MAY - BUDGET - RECEIPT 135302 BY C ALLEMANG PER E-MAIL
592175	20-Jun-2018	10,985.60	STANTEC CONSULTING SERVICES	PROJ 2002006056 - CUST 93668 - ON-CALL SANITARY SEWER PLANNING/DESIGN - THRU 05/11/18 - MP ENG - RECEIPT 135006 BY H VASKELIS
592176	20-Jun-2018	673.96	Starbuck, Ryan M.	K9 SELECTIONS IN PA; MAY 2018
592177	20-Jun-2018	13.76	STATE OF OREGON	ACCT 83038 - AUTOMATED METER SKIPS-CARD/TAPE ENTRY RECORDS - THRU 05/31/18 - PARKING
592178	20-Jun-2018	3,420.35	STATE OF WASHINGTON	B HALVORSEN - ER PORTION OF MEMBER'S OPTIONAL BILL - PAYROLL
592179	20-Jun-2018	4,540.90	STATE OF WASHINGTON	HARBOR AREA LEASE NO 22-B02524 - AQUATIC LANDS LEASE - WATERFRONT PARK - FACILITIES
592180	20-Jun-2018	469.34	STERICYCLE INC	SUMMARY: 18MAY - HAZARDOUS/MEDICAL WASTE DISPOSAL

INVOICE PAYMENTS REPORT

Check Number	Check Date	Amount	Vendor Name	Description
592181	20-Jun-2018	260.00	SUMMIT LAW GROUP	CLIENT 23101-1 RBY - LEGAL SERVICES - FIRE GENERAL LABOR - THRU 04/30/18 - FIRE
592182	20-Jun-2018	102.00	Sweyer, Douglas J	CDL ENDORSEMENT REIMBURSEMENT
592183	20-Jun-2018	2,730.00	TEKSYSTEMS	BAKER MICHAEL - W/E 06/02/18 - INFO TECH - RECEIPT 135325 BY J SCHOESSLER PER E-MAIL
592183	20-Jun-2018	2,655.00	TEKSYSTEMS	BENSON ROBERT - W/E 06/02/18 - INFO TECH - RECEIPT 135326 BY J SCHOESSLER PER E-MAIL
592183	20-Jun-2018	3,200.00	TEKSYSTEMS	LAWSON COREY - W/E 06/02/18 - INFO TECH - RECEIPT 135327 BY J SCHOESSLER PER E-MAIL
592184	20-Jun-2018	30.00	TOWER ROCK PRODUCTS INC	BRUSH INTAKE - 05/22/18 - OP CENTER
592185	20-Jun-2018	457.45	TOWING & RECOVERY SERVICES INC	SUMMARY: TOWING - VPD
592186				
592187	20-Jun-2018	121.35	Tryon, Brenda S	IACP TRAINING REFRESHMENTS
592188	20-Jun-2018	12.45	UNITED PARCEL SERVICE	18JUN - SHIPPER #856018 - SERVICE CHARGE - OPS CENTER
592189	20-Jun-2018	3,766.28	UNIVAR USA INC	CUST 107817 - ORDER 197912 - CAUSTIC SODA - OPS CENTER
592190	20-Jun-2018	66.50	VANCOUVER AIRE LLC DBA FRESH AIRE AIR FRESHENERS	ROUTE 1-3 1 - DEODORIZING SERVICE - THRU 05/15/18 - FIRSTENBURG COMM CTR - 700 NE 136TH AVE - OP CENTER - RECEIPT 135505 BY P NEWTON PER E-MAIL
592190	20-Jun-2018	144.50	VANCOUVER AIRE LLC DBA FRESH AIRE AIR FRESHENERS	ROUTE 4-1 2 - DEODORIZING SERVICE - THRU 05/08/18 - TOWN PLAZA - 5411 E MILL PLAIN BLVD - OP CENTER - RECEIPT 135506 BY P NEWTON PER E-MAIL
592191	20-Jun-2018	17,304.00	VANCOUVER USA REGIONAL TOURISM OFFICE	2018 MARKETING GRANT PROGRAM - REGIONAL TOURISM MARKETING - FINANCE
592192	20-Jun-2018	57.75	Viles, Brian Charles	RILEA 2018
592193	20-Jun-2018	214.50	Waddle, Brent Aaron	USPTA PNW CONVENTION - TRAINING FOR TENNIS PROS - POST TRAVEL
592194	20-Jun-2018	6,000.02	WALTER E NELSON CO	SUMMARY: JANITORIAL SUPPLIES - FIRE, OP CENTER
592195	20-Jun-2018	10,744.21	WASTE CONNECTIONS INC	18MAY MONTHLY GARBAGE SERVICES FOR MULTIPLE CITY ACCOUNTS - SOLID WASTE
592196	20-Jun-2018	16,257.57	WATER & AIR WORKS	SUMMARY: CUST 16709 - SELF-FILLING DISPENSER SERVICES - OP CENTER
592197	20-Jun-2018	2,980.43	WESTERN EQUIPMENT DISTRIBUTORS	CUST 1823 - OPERATING SUPPLIES - EQUIP SERVICES
592198	20-Jun-2018	17,249.49	WILCOX & FLEGEL	SUMMARY: FUEL FOR ENGLISH PIT, FIRE STATION 5, OPS - EQUIP SERVICES
592199	20-Jun-2018	113.75	Williamson, Frederick T (Willy)	2018 WAMA/OAMA CONFERENCE - POST TRAVEL
592200	20-Jun-2018	137.90	Wilson, Steve R	REIMBURSEMENT FOR PAYMENT OF MASTER ELECTRICIAN RENEWAL FOR STEVE WILSON
592201	20-Jun-2018	935.53	WW GRAINGER INC	ACCT 808802698 - SHOP SUPPLIES - EQUIP SERVICES
592202	20-Jun-2018	64.16	XPO ENTERPRISE SERVICES INC	WEEKLY POSTAGE SERVICES - THRU 05/19/18 - FINANCE/MAILROOM
592203	22-Jun-2018	932.80	WESTERN METAL IND PENSION FUND	PAYROLL
592204	22-Jun-2018	1,097.01	UNITED WAY OF THE COLUMBIA WILLAMETTE	PAYROLL
592205	22-Jun-2018	4,412.00	CHAPTER 13 - TRUSTEE	PAYROLL
592206	22-Jun-2018	7,447.32	LIFE INSURANCE CO OF NORTH AMERICA	PAYROLL
592207	22-Jun-2018	9,291.53	AMERICAN FAMILY LIFE ASSURANCE	PAYROLL
592208	22-Jun-2018	722.50	IAM LOCAL #1374	PAYROLL
592209	22-Jun-2018	19,061.20	IAFF LOCAL #452	PAYROLL
592210	22-Jun-2018	14,530.34	VANCOUVER POLICE OFFICER GUILD	PAYROLL
592211	22-Jun-2018	5,309.10	AFSCME LOCAL #307	PAYROLL
592212	22-Jun-2018	5,116.78	OPEIU LOCAL #11	PAYROLL
592213	22-Jun-2018	3,143.40	WESTERN CONFERENCE OF TEAMSTERS	PAYROLL
592214	22-Jun-2018	550.00	MFS SERVICE CENTER INC	PAYROLL
592215	22-Jun-2018	672.00	TEAMSTERS LOCAL #58	PAYROLL

INVOICE PAYMENTS REPORT

Check Number	Check Date	Amount	Vendor Name	Description
592216	22-Jun-2018	297.50	UA LOCAL #290	PAYROLL
592217	22-Jun-2018	72.36	LEGAL SHIELD	PAYROLL
20001434	25-Jun-2018	1,971.29	CITY OF VANCOUVER	SUMMARY: INFOR CITY PAYMENTS
	SUBTOTAL	2,620,794.36		
VISA	26-Jun-18	2,571.17	MISCELLANEOUS	PARKS CLASS REFUNDS - FCC 06/19/18 - 06/25/18
VISA	26-Jun-18	2,044.43	MISCELLANEOUS	PARKS CLASS REFUNDS - MCC 06/19/18 - 06/25/18
VISA	25-Jun-18	-	MISCELLANEOUS	PARKS CLASS REFUNDS - SPECIAL EVENTS 06/19/18 - 06/25/18
VISA	26-Jun-18	-	MISCELLANEOUS	PARKS CLASS REFUNDS - VTC 06/19/18 - 06/25/18
VISA	26-Jun-18	-	MISCELLANEOUS	PARKS CLASS REFUNDS - WREC 06/19/18 - 06/25/18
	SUBTOTAL	4,615.60		
	TOTAL	2,625,409.96		

**City of Vancouver
Payroll Council Report
June 19, 2018 - June 25, 2018**

[illegible]

\$ 2,821,654.11

Proposed 5th Plain Creek Station Annexation Hearing



July 2, 2018

Vancouver City Council Public Hearing

Rebecca Kennedy, Long Range Planning Manager

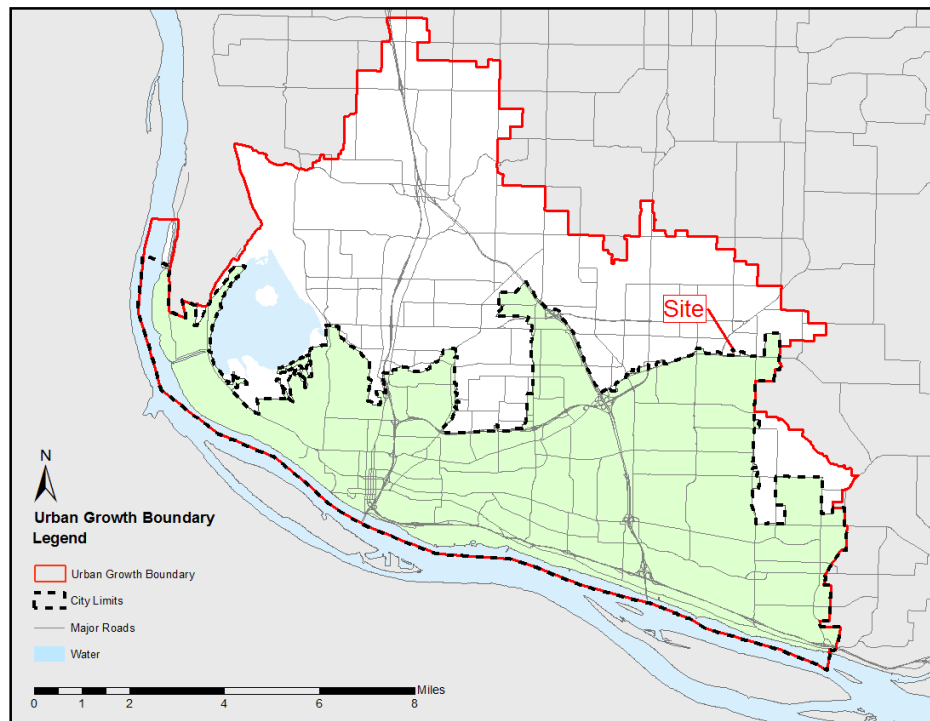
Bryan Monroe, Associate Planner

Bryan Snodgrass, Principal Planner

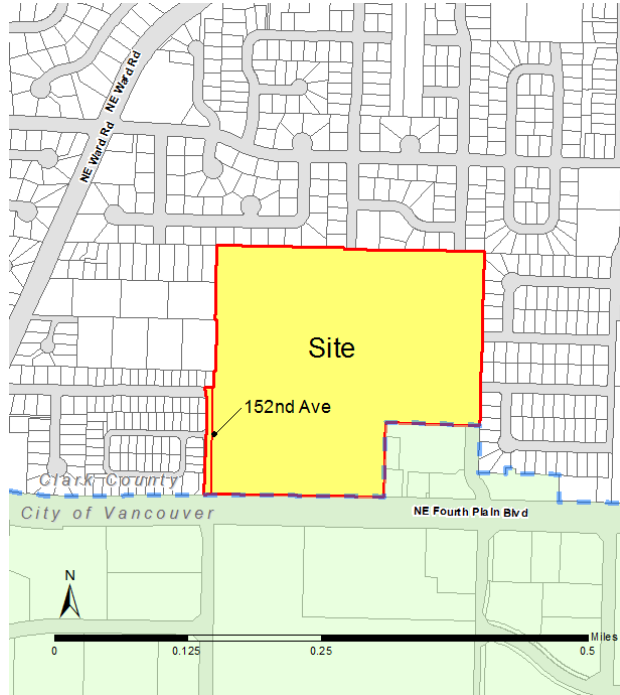
Presentation Overview

- Annexation Location /Geographic Area
- Comprehensive Plan and Zoning Designation
- Assumption of Debt
- Action Requested
- Next Steps

General Vicinity Map

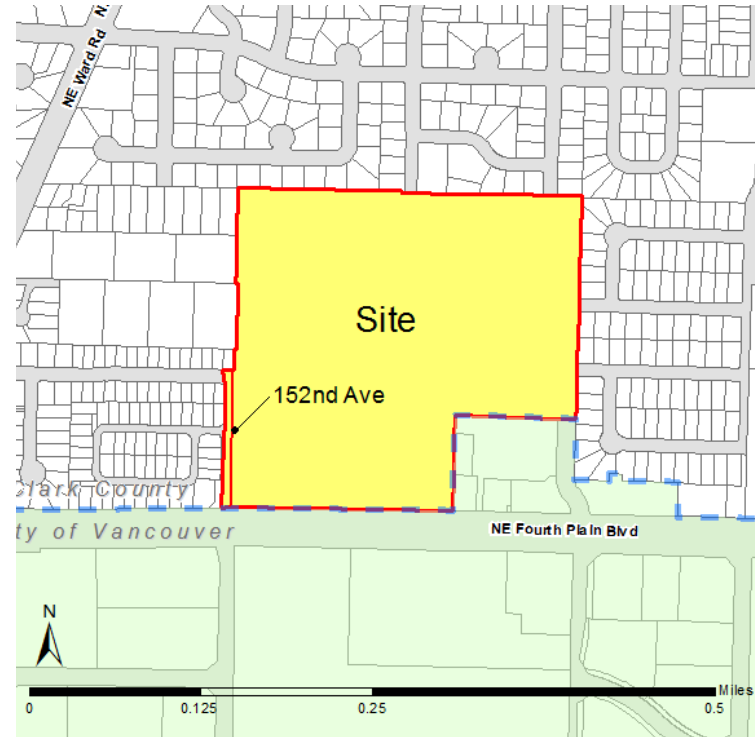


Proposed 5th Plain Creek Station Annexation



Geographic Area

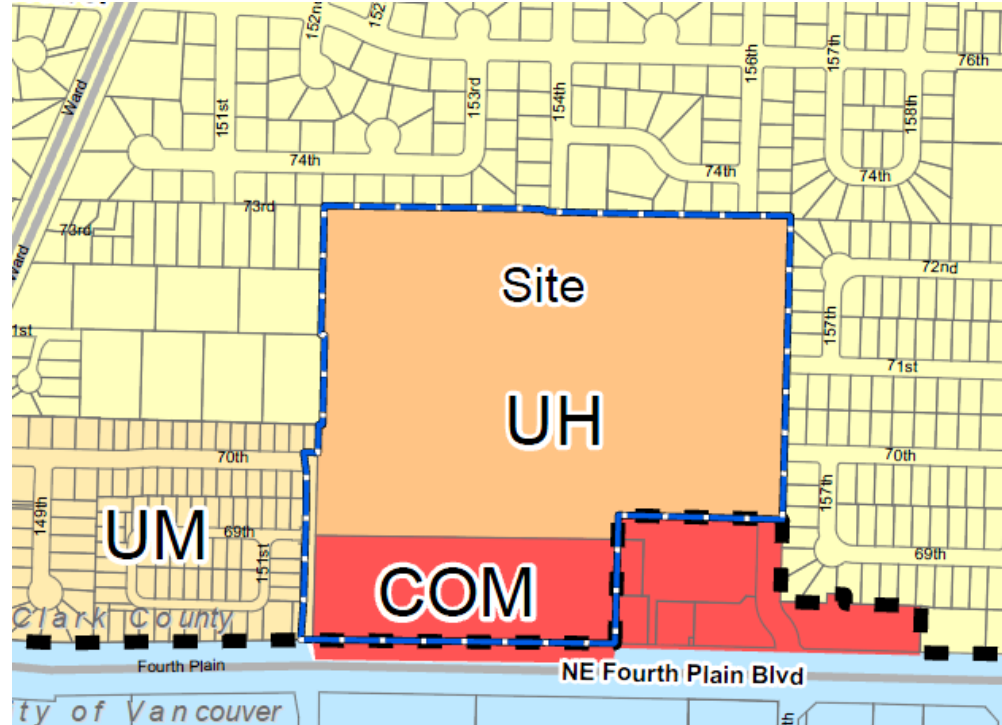
Approximately 33.69 acres
Plus 152nd Avenue right of
way to the west.



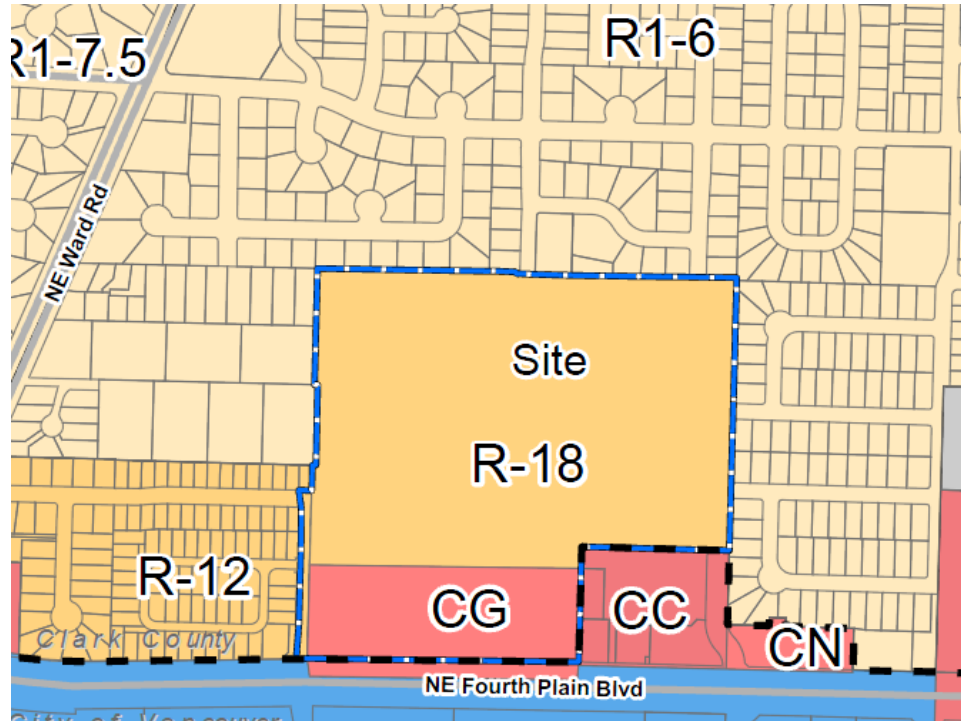
Comprehensive Plan & Zoning Designation Process

- Applicant proposed alternate land use designations
- Staff processed proposed designation through Planning Commission
- March 13, 2018 Planning Commission approval recommendation
- May 21, 2018 City Council adopts ordinance to approve Comprehensive Plan and Zoning designations for site, and Development Agreement with conceptual site plan

Proposed Comprehensive Plan Designations



Proposed Zoning Designations



Assumption of Debt

- There is currently no existing City debt to be passed on to the annexed area.

Action Requested

- Approve the annexation ordinance setting the effective date as July 3, 2018.

Next Steps if Annexation Ordinance Passes

- Notice of Annexation decision sent to property owner, residents, businesses and service providers and taxing entities.
- Submit population census documents to Washington State Office of Financial Management for final population approval.

Land Use Considerations

- Most but not all existing street stubs required by prior Clark County review likely to be connected to in order to meet City standards for area-wide connectivity, to improve the performance of the overall street network, and provide secondary emergency services access to adjacent neighborhoods.
- Conceptual site plan restricts multi-family homes to the interior of the site, and provides single-family homes at the edge of the site abutting the surrounding neighborhood. City code requires six foot high shrubs or fencing at property line.

Land Use Process

- Ordinance adopted after May 21 Council hearing established *conceptual* site plan as well as Plan and zone map designations.
- Final development of commercial portion of site to be determined through administrative site plan review. Final residential configuration including street connections to be determined through upcoming subdivision review, including public hearing not yet scheduled. Notice to be provided to neighborhood association, properties within 500 feet.

Conceptual Site Plan



Action Requested

- Approve the annexation ordinance setting the effective date as July 3, 2018.

Questions and Discussion

Bryan Monroe, Associate Planner, bryan.monroe@cityofvancouver.us

Rebecca Kennedy, Long Range Planning Manager,
rebecca.kennedy@cityofvancouver.us

Bryan Snodgrass, Principal Planner, bryan.snodgrass@cityofvancouver.us

www.cityofvancouver.us/annexation





Staff Report 098-18

TO: Mayor and City Council

FROM: Eric Holmes, City Manager

DATE: 7/2/2018

SUBJECT 5th Plain Creek Station Annexation

Key Points

- Annexation of 33.69 acres along the northern border on Fourth Plain Boulevard generally between Ward Road and NE 156th Avenue.
- Reaffirming proposed Comprehensive Plan and zoning designations to become effective upon annexation.

Strategic Plan Alignment

Goal 1: Ensure our built urban environment is one of the safest, most environmentally responsible and well maintained in the Pacific Northwest.

Goal 1, Objective 1.2: Ensure our infrastructure, including buildings and utilities, is safe, environmentally responsible and well maintained.

Goal 1, Objective 1.1: Develop and maintain a safe, balanced and innovative transportation system that will meet the needs of future generations.

Present Situation

The proposed annexation area is located within Vancouver's urban growth boundary, and is contiguous to the City of Vancouver along the northern border on Fourth Plain Boulevard generally between Ward Road and NE 156th Avenue. This annexation request contains one parcel of approximately 33.69 acres and also includes the 152nd Avenue right-of-way abutting the site to the west. The applicant proposed to change the Comprehensive Plan and zoning designations for the site.

Council first met with the applicant on January 8, 2018, and passed Resolution M-3957 to proceed. The applicant then applied to change the site Comprehensive Plan and zoning designation with an associated development agreement through the Planning Commission. The

Planning Commission recommended approval to City Council through a public hearing held on March 13, 2018. City Council approved the Comp Plan / zone change Ordinance M-4231 on May 21, 2018.

Advantage(s)

1. Supports request of property owner annexation request.
2. Annexes into the City an area where the City is already providing fire, water and sewer services.
3. Proposed area is expected to positively impact the City's financial situation.
4. Ensures future development will conform to City development standards.

Disadvantage(s)

None

Budget Impact

None

Prior Council Review

- November 29, 2017 - Workshop for annexation
- January 8, 2018 - Public Meeting for annexation (Resolution M-3957)
- April 16, 2018 - Workshop Comp Plan / Zone change
- May 7, 2018 - Consent for Comp Plan / Zone change
- May 21, 2018 - Adoption of Ord. M4231 for Comp Plan / Zone change
- June 25, 2018 - First reading of annexation ordinance.

Action Requested

On Monday, July 2, 2018, subject to second reading and public hearing, approve ordinance.

Rebecca Kennedy, Long Range Planning Manager, 487-7896; Bryan Monroe, Associate Planner, 487-7958; Brent Boger, Assistant City Attorney, 487-8500

ATTACHMENTS:

- ▢ 5th Plain Creek Station Annexation Ordinance
- ▢ 5th Plain Creek Station Annexation Legal desc
- ▢ 5th Plain Creek Station Annexation Boundary Map
- ▢ 5th Plain Creek Station Annexation Comp Plan Map
- ▢ 5th Plain Creek Station Annexation Petition
- ▢ 5th Plain Creek Station Annexation Petition Certification
- ▢ 5th Plain Creek Station Res. to proceed
- ▢ 5th Plain Creek Station Annexation Comp Plan Zone Change Ord

06/25/18
07/02/18

ORDINANCE NO. _____

AN ORDINANCE relating to the approval of the 5th Plain Creek Station annexation pursuant to RCW 35.13.150; establishing the geographic extent, confirming the comprehensive plan and land use designations, and determining the assumption of all or any portion of existing city indebtedness; accepting the certified petition supporting annexation; and providing for an effective date for the annexation.

WHEREAS, pursuant to RCW 35.13.005, no city located in a county in which urban growth areas have been designated under RCW 36.70A.110 may annex territory beyond an urban growth area; and,

WHEREAS, pursuant to Chapter 36.70A RCW, the City of Vancouver has an urban growth area designated under the Growth Management Act; and,

WHEREAS, the proposed annexation area is in Vancouver's urban growth boundary, and is contiguous to the City of Vancouver along the northern border of Fourth Plain Boulevard generally between Ward Road and NE 157th Ave; and,

WHEREAS, pursuant to RCW 35.13.125, the City of Vancouver received a signed initiation annexation petition from property owner for 100% of the assessed value of land within the defined annexation area; and,

WHEREAS, pursuant to RCW 35.13.125, on January 8, 2018, Vancouver City Council met with the interested parties, considered public testimony, and approved Resolution M-3957 accepting the annexation request; defining the geographic extent of the proposed annexation; requiring the

simultaneous adoption of the comprehensive plan and zoning designations; and not requiring assumption of all or any portion of the existing city indebtedness by the area to be annexed; and,

WHEREAS, on April 2, 2018, the City of Vancouver submitted the applicant's annexation petition to the Clark County Assessor having the signatures of owners of property within the annexation area owning at least sixty percent of the total assessed value of the area proposed for annexation; and

WHEREAS, pursuant to RCW 35.21.005, on April 12, 2018, the Clark County Assessor certified that the signature represents support from over sixty percent of the total assessed valuation of the area proposed for annexation; and

WHEREAS, the Vancouver City Council held duly noticed public hearings to consider the proposed annexation and, pursuant to RCW 35.13.150, determined that the annexation should be made; and

WHEREAS, the Vancouver City Council held duly noticed public hearings on a proposed comprehensive land use plan to become effective upon the annexation of the area, pursuant to RCW 35.13.177 and VMC 20.230.030, and determined upon annexation the Comprehensive Plan designation and zoning designations will change.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Approval of Annexation: Pursuant to Chapter 35.13 RCW, the annexation of the 5th Plain Creek Station annexation area to the City of Vancouver is hereby approved. The annexation area is located in Vancouver's unincorporated urban growth boundary, north of the current City limits generally north of Fourth Plain Boulevard between Ward Road and NE 157th Avenue. The legal description of the annexation boundary is set forth in Exhibit "A", attached

hereto and incorporated herein. A map of such annexing land is set forth in Exhibit “B”, attached hereto and incorporated herein.

Section 2. Comprehensive Plan and Zoning Designations: Pursuant to VMC 20.230.030 and RCW 35.13.177, and as provided in Ordinance M-4231 adopted by the City Council on May 21, 2018 and reaffirmed after a second public hearing on July 2, 2018, the designated Comprehensive Plan and zoning designations for the land proposed for annexation shall change. Upon annexation the Comprehensive Plan designation will change from Mixed Use (MX) to Urban High Density (UH) and Commercial (COM). The underlying zoning designations will change from Mixed Use (MX) to R-18 and General Commercial (GC). The comprehensive plan and zoning designations provided for herein are shown on the maps attached hereto and incorporated herein as Exhibits “C” and “D”.

Section 3. Indebtedness: As provided in Resolution M-3957 adopted by the City Council on January 8, 2018, the City will not require the property owners within the annexation boundary to accept any of the existing indebtedness.

Section 4. Filing with Clark County: The City Clerk shall cause a certified copy of this ordinance to be filed with the clerk of the Clark County Council in accordance with RCW 35.13.150. The City Clerk shall cause a copy of this ordinance and ordinance M-4231 to be filed with the Clark County auditor in accordance with RCW 35.13.178.

Section 5. Certificate of Annexation. The City Clerk will cause the certificate required under RCW 35.13.260 to be filed with the office of financial management within thirty (30) days of the effective date of annexation.

Section 6. Effective Date: This ordinance shall become effective July 3, 2018.

Read first time:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read second time:

PASSED BY THE FOLLOWING VOTE:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Signed this _____ day of _____, 2018.

Anne McEnergy-Ogle, Mayor

Attest:

Approved as to form:

Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

E. Bronson Potter, City Attorney

SUMMARY

ORDINANCE NO. _____

AN ORDINANCE relating to approval of an annexation pursuant to RCW 35.13.125; establishing the geographic extent, defining the comprehensive plan and land use designations, and determining the assumption of all or any portion of existing city indebtedness; accepting the certified petition supporting annexation; and providing for an effective date for the 5th Plain Creek Station annexation on July 3, 2018.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 159108-000

Parcel I

The Southwest quarter of the Northwest quarter of Section 12, Township 2 North, Range 2 East of the Willamette Meridian, Clark County, Washington.

EXCEPT the South 28.28 rods of the East 28.28 rods.

ALSO EXCEPT the following described parcel of property:

COMMENCING at the Southwest corner of the Northwest quarter of said Section 12;

Thence North 01°30'26" East along the West line of said Northwest quarter of Section 12, 951.26 feet to the South line of that tract conveyed to Ronald E. Raley by deed recorded under Auditor's File # G714092 of Clark County Records and the TRUE POINT OF BEGINNING;

Thence South 01°30'26" West along said West line 250.47 feet to the South line of that tract conveyed to Torrence L. Speights by deed recorded under Auditor's File # G375849 of Clark County Records;

Thence South 01°30'26" West along said West line 3.79 feet to a point which bears North 88°37'05" West from a 1/2" iron rod set by Olson Engineering Inc. in 1976 as shown on the Record of Survey recorded in Book 4 of Surveys at Page 192 of Clark County Records;

Thence South 88°37'05" East 11.44 feet to said 1/2" iron rod;

Thence North 01°10'13" East 252.36 feet to another 1/2" iron rod set by Olson Engineering, in said Record of Survey;

Thence continuing North 01°10'13" East 1.89 feet to a point which bears South 88°37'05" East from the True Point of Beginning;

Thence North 88°37'05" West 9.94 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPT that portion lying within NE Fourth Plain Blvd./Road.

ALSO EXCEPT that portion acquired by the State of Washington by the Stipulated Judgment and Decree of Appropriation filed November 6, 2002, under Clark County, Washington Superior Court Case No. 01-2-00977-3.

Parcel II

That portion of the Northwest quarter of the Northwest quarter of Section 12, Township 2 North, Range 2 East, Willamette Meridian, Clark County, Washington, described as follows:

Beginning at a 1/2 inch iron pipe marking the Southeast corner of Lot 22 of "Mountain View Meadows",

EXHIBIT "A"
Legal Description

according to the plat thereof recorded in Volume G of plats at page 924, records of Clark County, Washington;

Thence North 01°26'54" East, along the East line of said Lot 22, a distance of 0.93 feet to an existing fence line and the TRUE POINT OF BEGINNING;

Thence South 87°59'25" East, along an existing fence line, 82.87 feet to a fence corner;

Thence continuing along an existing fence line, South 32°00'07" East, 7.33 feet to the South line of the Northwest quarter of the Northwest quarter of said Section 12;

Thence North 88°15'37" West, along the South line of the Northwest quarter of the Northwest quarter of said Section 12, a distance of 86.90 feet to the Southerly prolongation of the East line of said Lot 22;

Thence North 01°26'54" East, to and along the East line of said Lot 22, a distance of 6.48 feet to the TRUE POINT OF BEGINNING.

Also that portion of the Southwest quarter of the Northwest quarter of the Northwest quarter of said Section 12, lying Southerly of the South line of said plat of "Mountain View Meadows".

EXHIBIT "A"
Legal Description

152nd Ave Right of Way

A tract of land lying in the Southeast 1/4 of the Northeast 1/4 of Section 11, Township 2 North, Range 2 East of the Willamette Meridian, Clark County, Washington said tract being more particularly described as follows:

Beginning at the Southeast corner of the Northeast Quarter of said Section 11 as shown on Sheet 2 of the Autumn Walk subdivision recorded in Book 311, Page 61 records of Clark County, WA;

Thence North 1° 30' 14" East along the East line of said quarter section 86.76 feet to the Southeast corner of said subdivision, said point being the True Point of Beginning and the North line of the Vancouver City Limits as defined in Burnt Bridge Creek Annexation recorded in Ordinance M-3742 and Birtcher Annexation recorded in Ordinance M-3641;

Thence North 1° 30' 14" East 530.45 feet to the Southeast corner of Lot 1 of said subdivision;

Thence North 88° 29' 46" West 41.54 feet to the Southwest corner of Lot 1 of said subdivision;

Thence crossing NE 70th Street southerly to the north end of a non-tangent 12 foot radius curve defining the Northeast boundary of Lot 29 of said subdivision;

Thence southeasterly along said curve to the right 18.85 feet with a chord bearing of South 43° 29' 45" East and a chord distance of 16.97 feet per said subdivision;

Thence South 1° 30' 14" West 134.72 feet along the East line of Lot 29 and Lot 30 to a point of curvature of a 12 foot radius curve to the right;

Thence southwesterly along said curve 18.85 feet to the right with a delta angle of 90° 00' 00" per said subdivision;

Thence North 88° 29' 45" West 4.50 feet to an inside corner on the southeast boundary of Lot 30 of said subdivision;

Thence South 1° 30' 14" West 8.50 feet to the southernmost southeast corner of Lot 30 of said subdivision;

Thence crossing NE 69th Street southerly to a the most northern northeast corner of Lot 63 of said subdivision;

Thence South 1° 30' 14" West 8.50 feet to an inside corner of the north line of Lot 63 of said subdivision;

Thence South 88° 29' 45" East 4.50 feet to a point of curvature of a 12 foot radius curve to the right;

Thence southeasterly along said curve with a delta angle of 90° 00' 00" 1.50 feet to the most easterly northeast corner of Lot 63 of said subdivision, also being the northwest corner of TRACT B of said subdivision;

Thence continuing along said curve 17.35 feet to a point of tangency on the East line of said TRACT B;

Thence South 1° 29' 22" West 152.12 feet as shown on said subdivision;

Thence South 6° 38' 00" West 39.15 feet as shown on said subdivision;

Thence South 1° 30' 14" West 58.87 feet as shown on said subdivision;

Thence South 7° 34' 49" West 11.01 feet to a point on the South line of said subdivision and the North right-of-way line of Fourth Plain Boulevard as shown on said subdivision, being a point of curvature of a non-tangent curve to the right with a radius of 14,875.00 feet and the North line of the Vancouver City Limits line as defined in said Birtcher Annexation;

Thence easterly along said city limits and said curve to the right 34.18 feet, with a chord bearing of North 89° 29' 06" East and a chord length of 34.18 feet to the True Point of Beginning.

Approximate area described is 17,495 square feet.

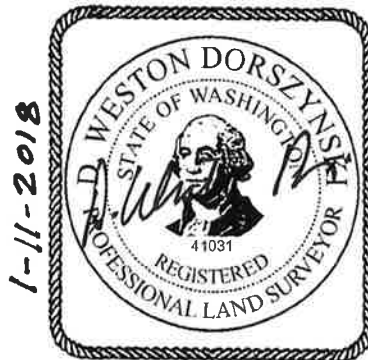


Exhibit B: Annexation Boundary

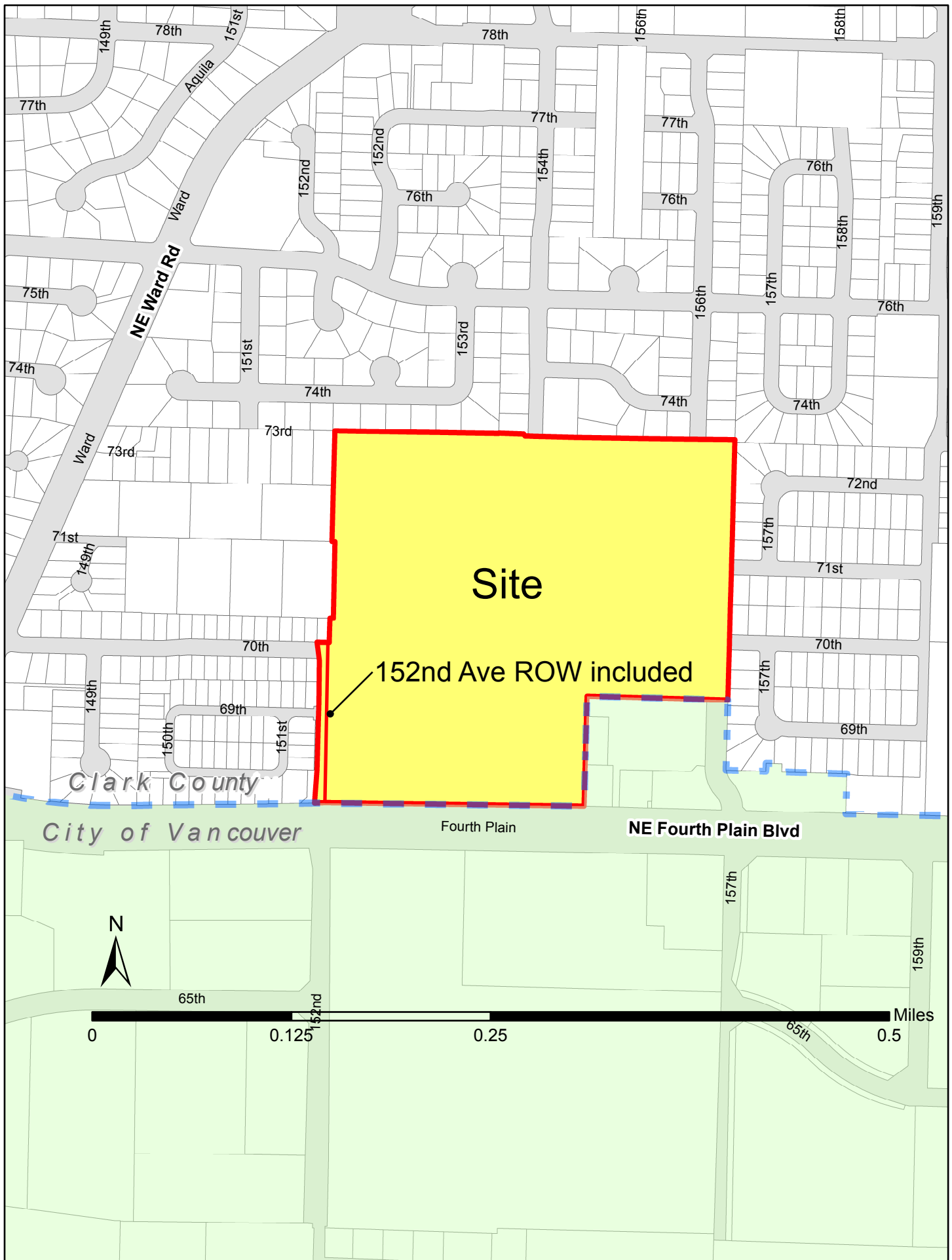
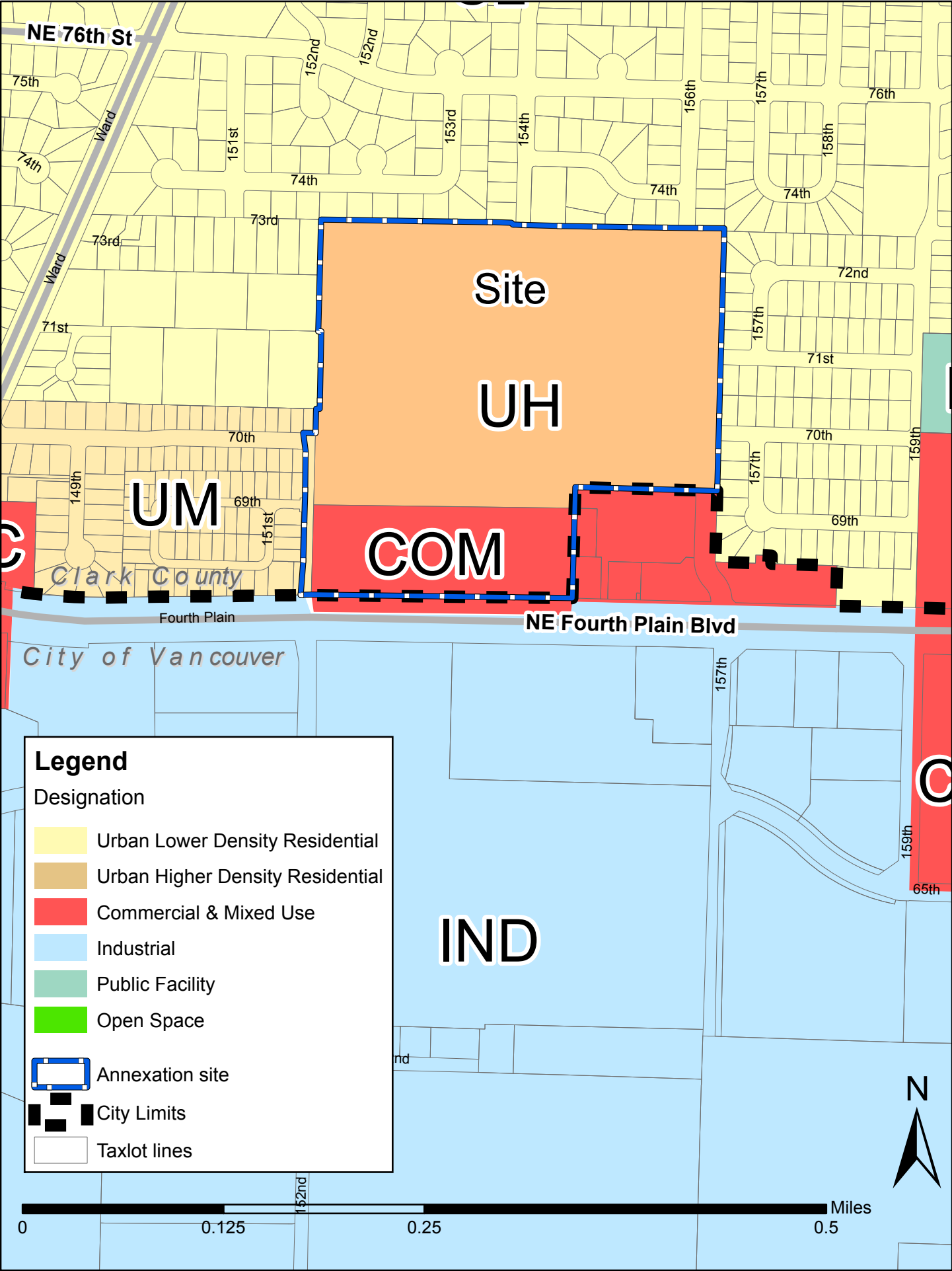


Exhibit C: Proposed Comp Plan



**PETITION FOR ANNEXATION
TO THE CITY OF VANCOUVER, WASHINGTON**

To the Honorable Mayor and City Council of the City of Vancouver, Washington.

The undersigned, being the owner of one hundred percent (100%) of the acreage of the real property herein described and lying contiguous to the City of Vancouver, Washington, does hereby petition that such territory be annexed to and made a part of the City of Vancouver under the provisions of Chapter 128, Laws of 1945, Chapter 331, Laws of 2003, and any amendments thereto, of the State of Washington (RCW 35.13.001, *et seq.*).

- The territory proposed to be annexed is within Clark County, Washington, and the boundaries are outlined on the plat accompanying this Petition. The property is legally described Exhibit "A" attached hereto.

There are no registered voters residing on the property.

The City Council of the City of Vancouver met with the initiating party at a council meeting on January 8, 2018, and did determine that the City of Vancouver would accept the proposed annexation. At said meeting the City Council did also determine that:

- It would adopt a comprehensive plan designation of Commercial and zoning designation of General Commercial (CG) for 5.9 acres of the proposed annexation area, and a comprehensive plan designation of Higher Density Residential and zoning designation of R-18 for 27.4 acres of the proposed annexation area; and,
- It would not require the assumption of existing City of Vancouver indebtedness by the area proposed to be annexed.

Wherefore, the undersigned petitions the honorable City Council and asks:

- (a) That appropriate action be taken to entertain this Petition, fixing a date for a public hearing, causing notice to be published and posted, specifying the time and place of such hearing, and inviting all persons interested to appear and voice approval or disapproval of such annexation; and
- (b) That following such hearing, the City Council determine by ordinance that such annexation shall be made, annexing the above described territory, and declaring the date whereon such annexation shall be effective; and that property so annexed shall become a part of the City of Vancouver, Washington, subject to its laws and ordinances then and thereafter in force.

Petition for Annexation to the City of Vancouver

The petitioner subscribing hereto agrees that all property within the territory hereby sought to be annexed shall be assessed and taxed at the same rate and on the same basis as other property within the City of Vancouver, including assessments or taxes in payment of any bonds issued or debts contracted prior to or existing at the date of annexation.

Date

Name

Address

11/6/17

JoAnn Toedtli

JoAnn Toedtli, Trustee of the Connie A. Toedtli Credit Shelter Trust – State QTIP dated August 29, 2009, as to an undivided 14.5% interest

6107 NE 241ST CT
VANCOUVER WA 98682

11/6/17

JoAnn Toedtli

JoAnn Toedtli, Trustee of the Connie A. Toedtli Credit Shelter Trust dated August 29, 2009, as to an undivided 19.25% interest

11

11/6/17

JoAnn Toedtli

JoAnn Toedtli, Trustee of the Connie A. Toedtli QTIP Trust dated August 29, 2009, as to an undivided 16.25% interest

11

11/6/17

JoAnn Toedtli

JoAnn Toedtli, as her separate estate as to an undivided 50% interest

11



proud past, promising future

CLARK COUNTY
WASHINGTON

DEPARTMENT OF ASSESSMENT

Peter Van Nortwick, Assessor

April 12, 2018

Bryan Monroe
Community and Economic Development Department
PO Box 1995
Vancouver, WA 98668

Dear Bryan,

You will find enclosed the Certification of Sufficiency of the petition for annexation of land to the City of Vancouver: 5th Plain Creek Station.

Please contact me should you have any questions regarding this annexation.

Sincerely,



Peter Van Nortwick
Clark County Assessor

Encls.
Certificaiton of Sufficiency
Annexation Legal Description
Annexation Map.

Certification of Sufficiency
Van Mall North Annexation

The City of Vancouver on April 2nd, 2018 submitted for review by Clark County Assessor, a petition to annex to the City, approximately 33.34 acres of land known as the 5th Plain Creek Station annexation. Subject to the requirements of RCW 35.21.005, I now certify the following in my capacity as Clark County Assessor:

1. On April 2nd, 2018 the City submitted for certification by the Clark County Assessor a petition to annex to the City one (1) parcel of land and associated road and public utility rights-of-way, totaling approximately 33.34 acres.
2. The legal description and map of the area proposed for annexation, as provided by the City, are attached to this certification. According to the map provided by the City, this area is located in unincorporated Clark County and within the urban growth boundary.
3. The City is completing annexation pursuant to the 60% method of annexation, 35.13.125 through 170.
4. The Clark County Assessor initiated determination of petition sufficiency on April 2, 2018 which is the "terminal date" as defined in 35.21.005.
5. The area proposed for annexation has a certified annexation value for general taxation of \$6,015,500.
6. Petition signatures provided by the city represent valid owner signatures of a combined total assessed value for general taxation of not less than 60% of the total assessed value for general taxation of all property in the proposed annexation area. This review did not address the legal sufficiency of any proxy or utility covenant, only the sufficiency of the presence of signatures thereon.

Therefore, based on the petition certification request and supporting materials submitted by the City, I hereby declare and certify that the petition represents the affirmative consent of properties totaling more than 60% of the value according to the assessed valuation for general taxation purposes of the property proposed for annexation.

Given under my hand and seal this April 12, 2018.



Peter Van Nortwick
Clark County Assessor

01/08/18

RESOLUTION NO. M-3957

A RESOLUTION relating to an annexation request using the 60% direct petition method pursuant to RCW 35.13.125 establishing the annexation geographic area, determining the process for the comprehensive plan and land use designations, and determining whether the property owners will assume all or any portion of existing City indebtedness for the proposed annexation area; and providing for an effective date.

WHEREAS, pursuant to RCW 35.13.005, no city located in a county in which urban growth areas have been designated under RCW 36.70A.110 may annex territory beyond an urban growth area; and,

WHEREAS, pursuant to RCW 36.70A, the City of Vancouver has an urban growth area designated under the Growth Management Act; and,

WHEREAS, the proposed Annexation area is located in Vancouver's urban growth boundary, and is contiguous to the City of Vancouver along the northern border on Fourth Plain Boulevard generally between Ward Road and 162nd Avenue; and

WHEREAS, pursuant to RCW 35.13.125, the owners of more than 10% of the assessed valuation of an area proposed for annexation have submitted annexation initiation petitions; and

WHEREAS, pursuant to RCW 35.13.125, the Vancouver City Council scheduled and advertised a public meeting with the interested parties to decide whether to accept, reject or geographically modify the proposed annexation area; whether to require simultaneous adoption of comprehensive plan and land use zoning designations as provided for in VMC 20.230.030;

RESOLUTION - 1

and whether to require assumption of all or any portion of the existing city indebtedness by the area to be annexed.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY OF VANCOUVER:

Section 1. Pursuant to Ch. 35.13 RCW, and as discussed in Staff Report 004-18, the 33.69 acre 5th Plain Creek Station Annexation area is unincorporated land located in Vancouver's urban growth boundary, and is contiguous to the City of Vancouver along northern border on Fourth Plain Boulevard generally between Ward Road and 162nd Avenue. The legal description of the annexation area is set forth in Exhibit "A", attached hereto and incorporated herein. A map of the annexation area is set forth in Exhibit "B", attached hereto and incorporated herein. The City will also annex the 152nd Avenue right of way abutting the subject annexation site to the west.

Section 2. VMC 20.230.030 provides that City Council shall designate the city comprehensive plan and zoning designations for the annexing land so as to be the most similar to the county zoning designations of such land, unless adoption of different designations are approved by Council. The site is currently designated as MX in Clark County for both comprehensive plan and zoning. Using the conversion under VMC 20.230.030B the site would convert to the City's corresponding COM (Commercial) comprehensive plan designation and MX zoning. The attached exhibits "C" and "D" graphically show the standard comprehensive plan and zoning conversions. In this case, the applicant is seeking to change the existing Comprehensive Plan designation from MX to COM and UH and the existing zoning designation of the site from MX to CG and R-18. The attached exhibits "E" and "F" graphically show the

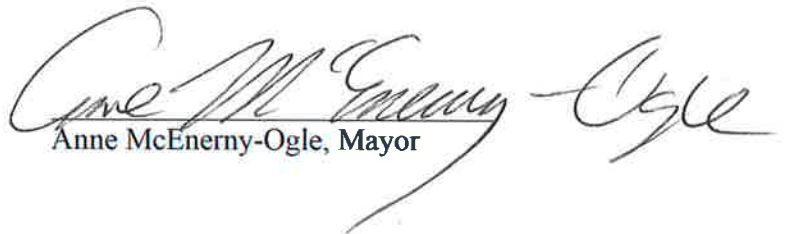
RESOLUTION - 2

proposed comprehensive plan and zoning conversions. The applicant is proposing to complete the Comprehensive Plan and Zone Change process through the Planning Commission and City Council prior to returning to City Council for the final annexation ordinance hearing.

Section 3. Currently there is no City indebtedness for the annexation area to assume therefore assumption of existing debt is not required.

Section 4. This resolution shall become effective immediately upon adoption, and as provided in RCW 35.13.125, is not subject to appeal.

Signed this 8th day of January 2018.


Anne McEnerny-Ogle, Mayor

Attest:



Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Approved as to form:



E. Bronson Potter, City Attorney

RESOLUTION - 3

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel I:

The Southwest quarter of the Northwest quarter of Section 12, Township 2 North, Range 2 East of the Willamette Meridian, Clark County, Washington.

Except the South 466.62 feet of the of the East 466.62 feet thereof.

ALSO EXCEPT any portion lying within Fourth Plain Road.

Parcel II:

That portion of the Northwest quarter of the Northwest quarter of Section 12, Township 2 North, Range 2 East of the Willamette Meridian, Clark County, Washington, described as follows:

Beginning at a 1/2 inch iron pipe marking the Southeast corner of Lot 22 of "Mountain View Meadows", according to the plat thereof recorded in Volume G of plats at page 924, records of Clark County, Washington;

Thence North 01°26'54" East, along the East line of said Lot 22, a distance of 0.93 feet to an existing fence line and the TRUE POINT OF BEGINNING;

Thence South 87° 59'25" East, along an existing fence line, 82.87 feet to a fence corner;

Thence continuing along an existing fence line, South 32°00'07" East, 7.33 feet to the South line of the Northwest quarter of the Northwest quarter of said Section 12;

Thence North 88°15'37" West, along the South line of the Northwest quarter of the Northwest quarter of said Section 12, a distance of 86.90 feet to the Southerly prolongation of the East line of said Lot 22;

Thence North 01°26'54" East, to and along the East line of said Lot 22, a distance of 6.48 feet to the True Point of Beginning.

EXCEPT any portion lying within public roadways.

ALSO

That portion of the Southwest quarter of the Northwest quarter of the Northwest quarter of said Section 12, lying Southerly of the South line of said plat of "Mountain View Meadows".

EXCEPT any portion lying within public roadways.

Exhibit B

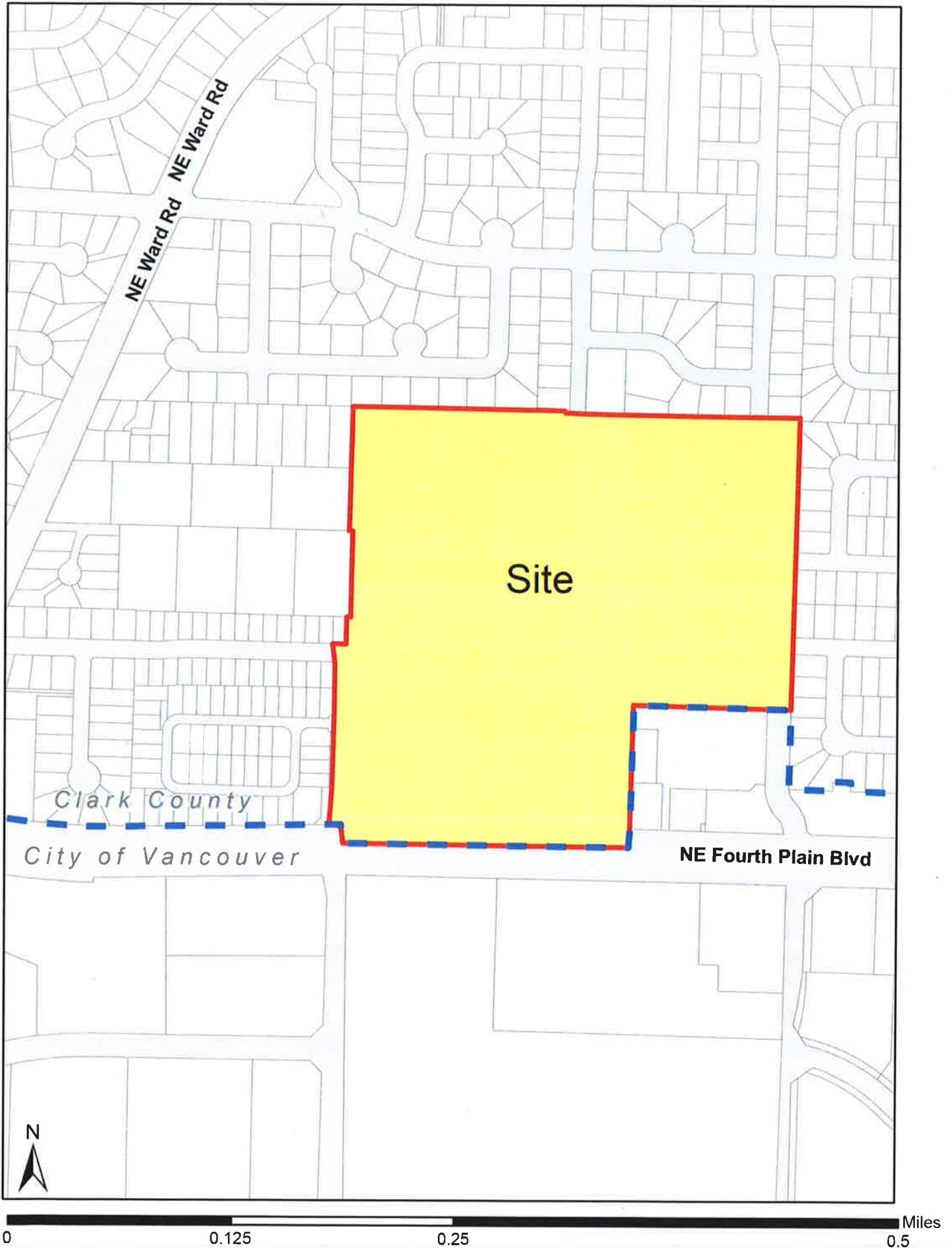


Exhibit C Standard Comp Plan Conversion

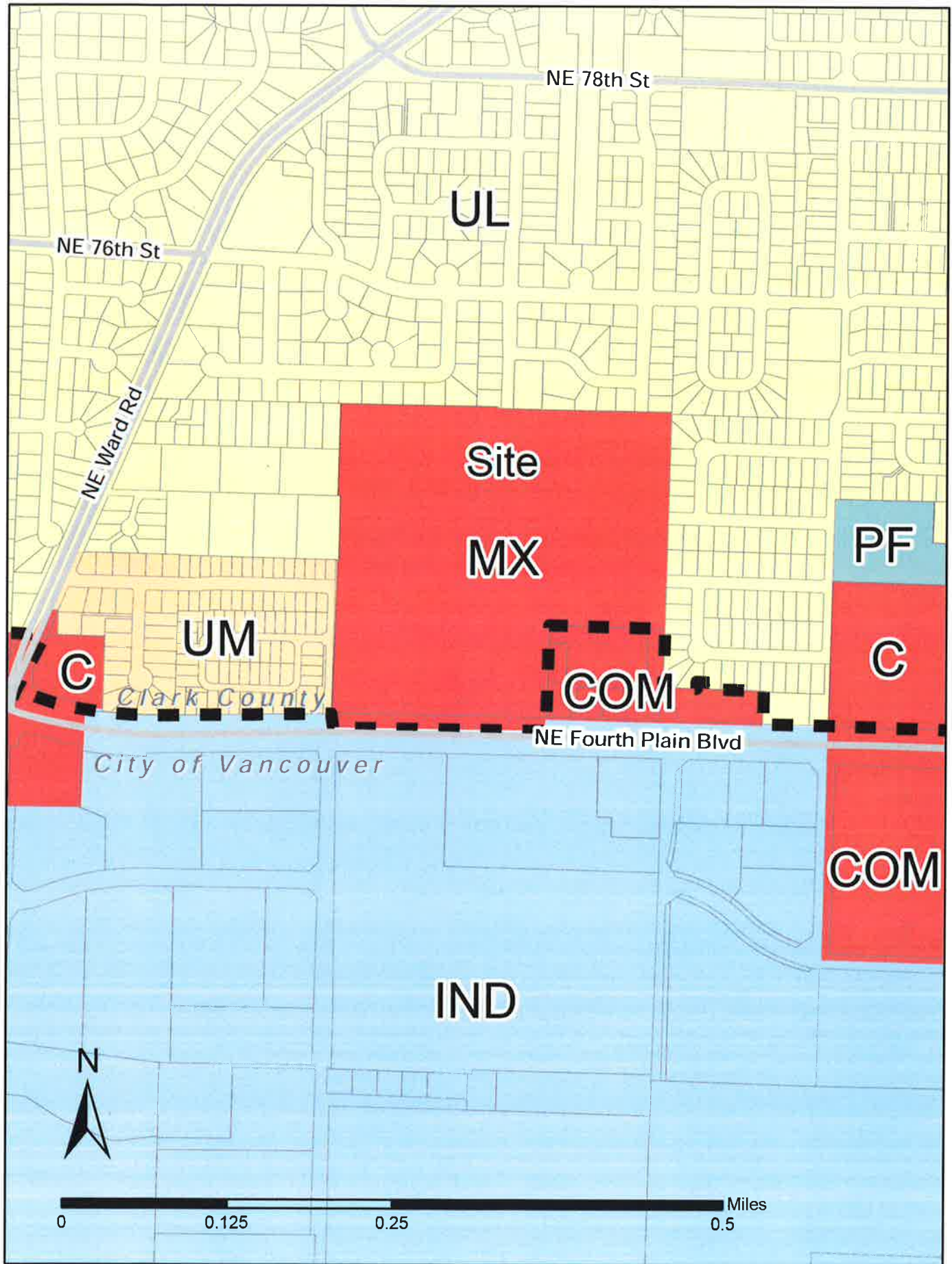


Exhibit D Standard Zoning Conversion

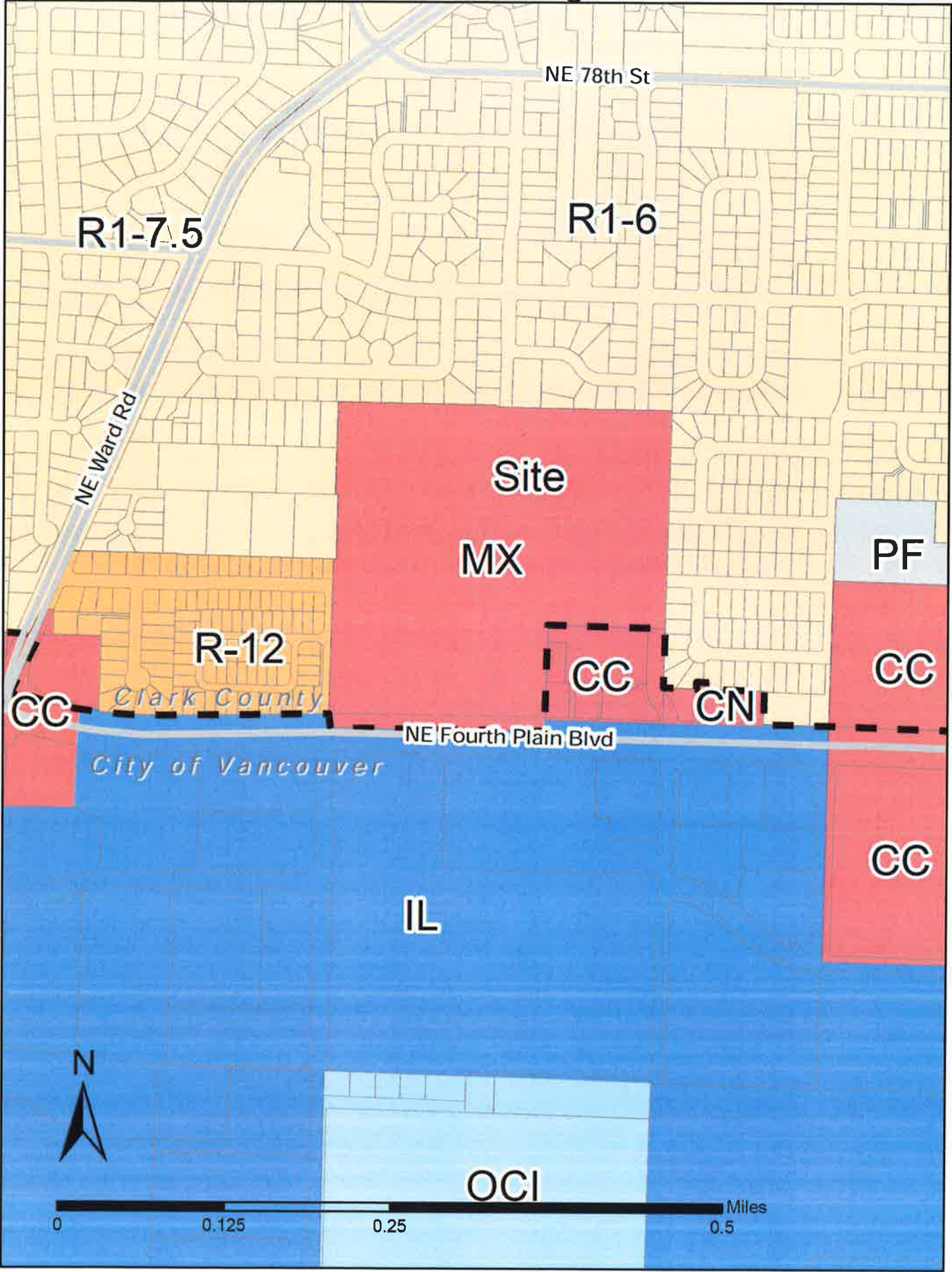


Exhibit E Applicant Proposed Comp Plan

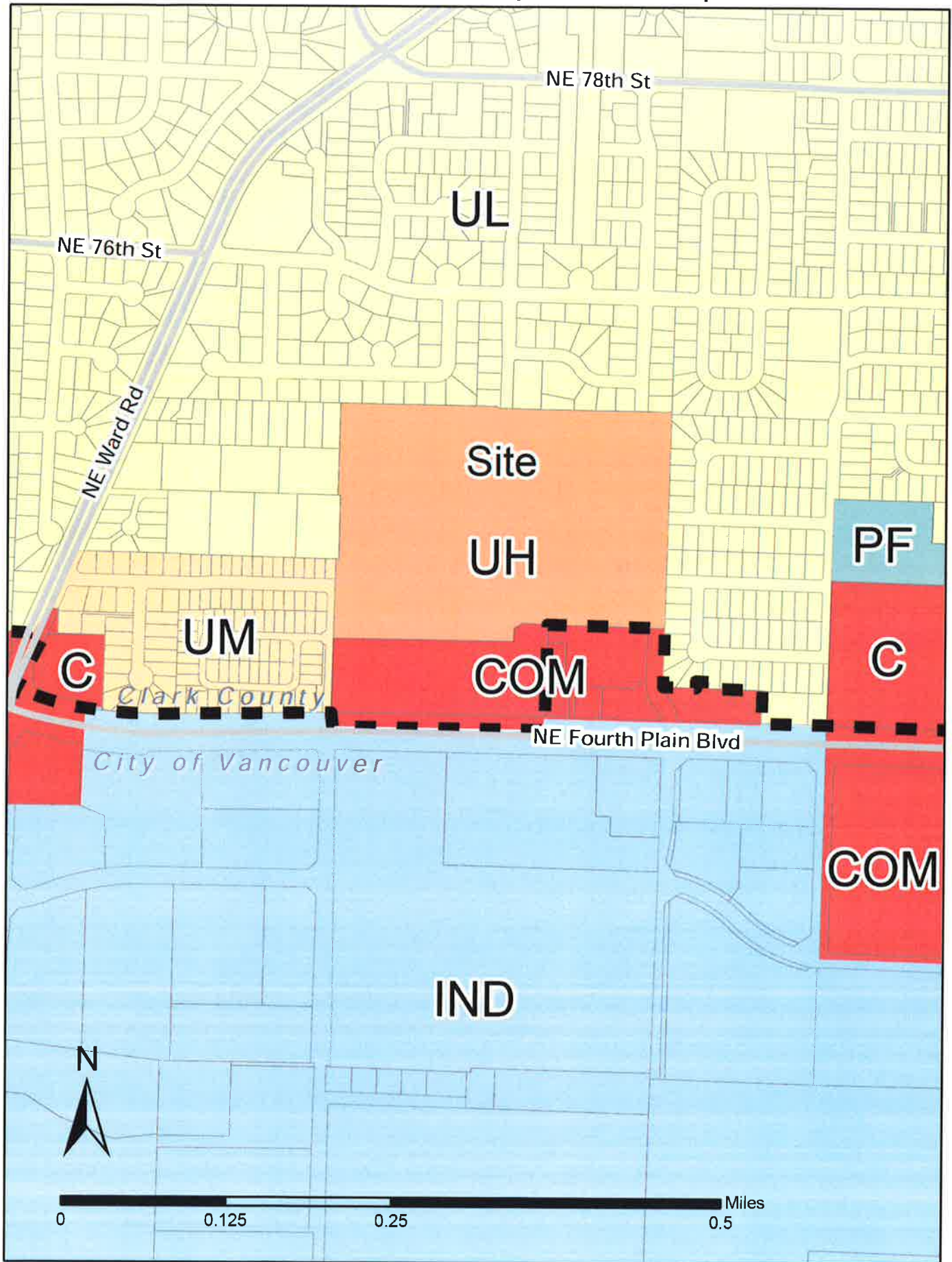
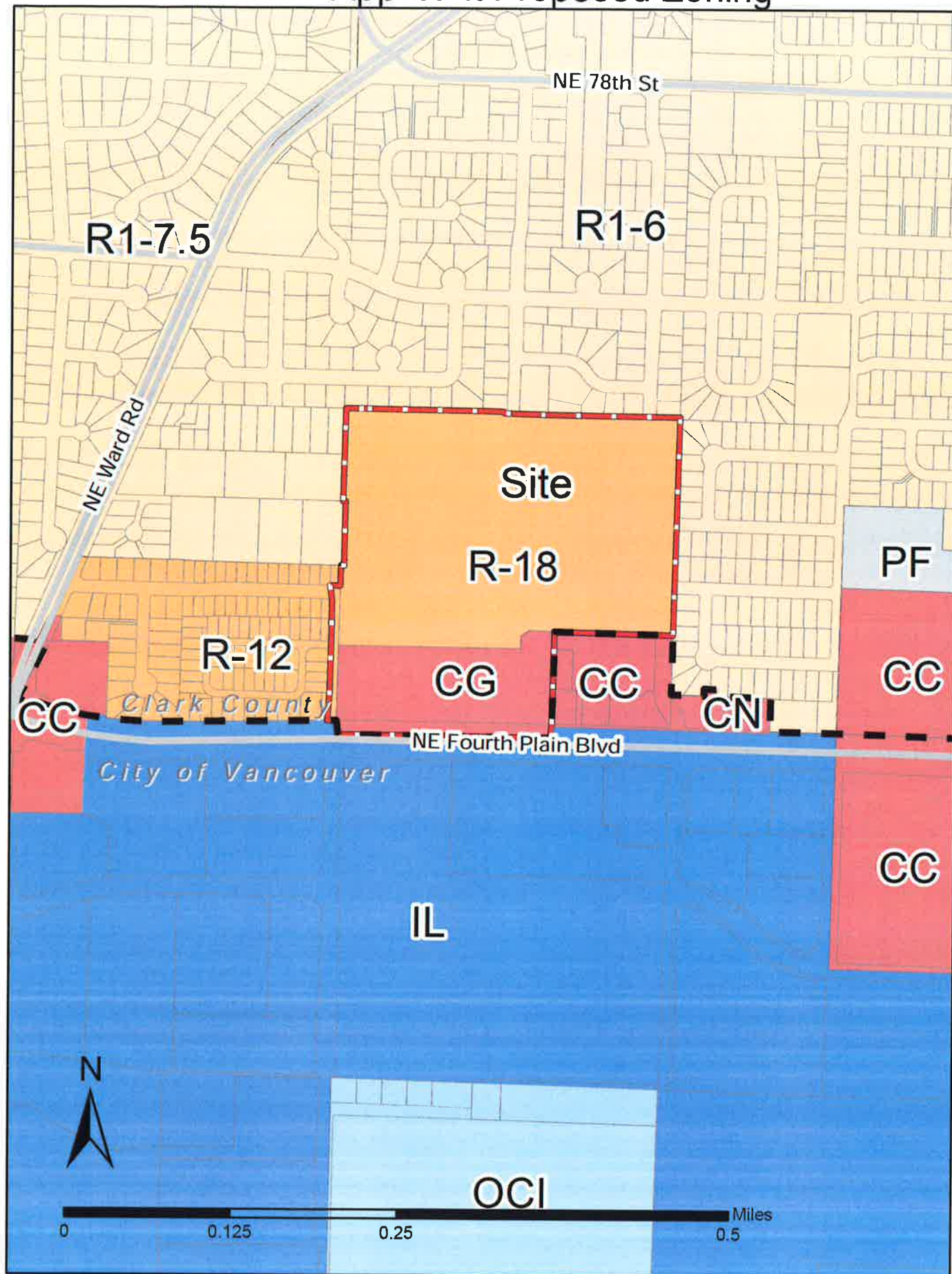


Exhibit F Applicant Proposed Zoning



05/07/18
05/21/18

ORDINANCE NO. M -4231

AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and Vancouver Municipal Code (VMC) Title 20; establishing Vancouver Comprehensive Plan and Zoning map designations for a property at 15306 Fourth Plain Boulevard which has requested annexation to the City of Vancouver, and authorizing the City Manager to enter into a Development Agreement, attached hereto as Exhibit A.

WHEREAS, pursuant to the Growth Management Act the City Council has adopted a Comprehensive Plan for the City of Vancouver (Ordinance M-3994), and Title 20 zoning standards (last amended through Ordinance M-4223; and

WHEREAS, the property is currently located in unincorporated Clark County, and is designated Mixed Use and MX by the County Comprehensive Plan and zoning map. Property owner Joann Toedtli proposed annexation to the City of Vancouver on November 9, 2017, and requested that pending annexation, the City establish Comprehensive Plan and zoning map designations of Urban High Density and R-18 on the northern approximately 27 acres of the site, and General Commercial and CG on the southern approximately 5 acres; and

WHEREAS, the Vancouver City Council formally initiated the annexation review process at a public meeting on January 8, 2018, at which time the City Council directed the Vancouver Planning Commission to review the Comprehensive Plan and zoning map designations proposed by the applicant and make recommendations; and

WHEREAS, the Vancouver Planning Commission reviewed the proposed changes at a duly advertised work session on February 13, 2018, and duly advertised public hearing on March

13, 2018, and at that hearing voted unanimously to recommend establishment of Comprehensive Plan and zoning map designations at the site proposed by the applicant, and authorization of the Development Agreement; and

WHEREAS, the City Council finds and concludes that the proposed establishment of Comprehensive Plan and zoning map designation changes and accompanying Development Agreement are consistent with all relevant criteria for Comprehensive Plan and Zoning Plan Map and Text Amendments (VMC 20.60 and 20.285) and consistent with the policies and provisions of the Comprehensive Plan and the Growth Management Act pursuant to the requirements of Chapter 36.70A. RCW; and

WHEREAS, the City Council conducted a duly advertised public work session on April 16, 2018, first reading on May 7, 2018, and public hearing on May 21, 2018, following which the Council adopted the Planning Commission recommendations for approval; and

WHEREAS, the cumulative environmental impacts of the proposed Comprehensive “Plan and zoning changes have been reviewed and determined to be nonsignificant pursuant to the State Environmental Policy Act. Notices of Determination of Non-significance (DNS) were issued on September 8, 2017 for the proposed Comprehensive Plan and zoning text and map changes, and no SEPA comments or appeals were received; and

WHEREAS, the City Council believes that the proposed changes are consistent with the relevant comprehensive plan policies that encourage orderly development within the community; and

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Findings and Conclusions. The Planning Commission findings and

conclusions as set forth in the staff report for the March 13, 2018 public hearing, are hereby adopted as the City Council's findings of fact; and

Section 2. Comprehensive Plan and Zoning Code Map Designation Amendments

The Vancouver Comprehensive Plan 2011-2030, adopted through Ordinance M-3994, and VMC Title 20 Zoning Code, last amended through ordinance M-4223, are amended to establish Urban High Density/R-18 designations on the northern portion of property at 15306 Fourth Plain Boulevard, Tax Lot 159108000 as indicated in Condition 7.1 and Exhibit B of the Development Agreement that is attached hereto as Exhibit A, and Commercial/CG designations on the southern portion of said property, all effective upon finalization of annexation; and

Section 3. Development Agreement. The City Manager is authorized to enter into a Development Agreement, attached hereto as Exhibit A herein, ensuring future development is substantially consistent with a conceptual site plan submitted by the applicant indicated in the Development Agreement, unless otherwise required as part of the subsequent development review.

Section 4. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any parts thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 5. Effective Date. This ordinance shall become effective only upon the annexation of the land described herein.

Section 6. Instruction to City Clerk. The City Clerk shall transmit a copy of the revised development code to the Washington Department of Commerce.

Read First Time: May 7, 2018

Ayes: Councilmembers Lebawsky, Glover, Stober, Topper, Turley,
Nays: Councilmembers Hansen, Mayor McEnerny-Ogle

Absent: Council Members

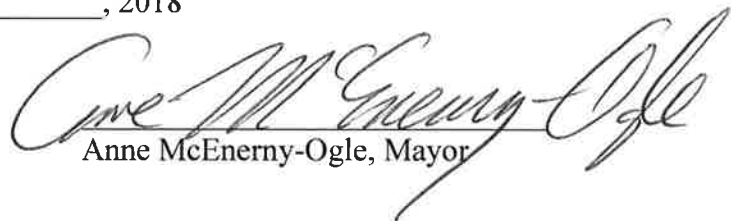
Read Second Time: May 21, 2018

PASSED BY THE FOLLOWING VOTE:

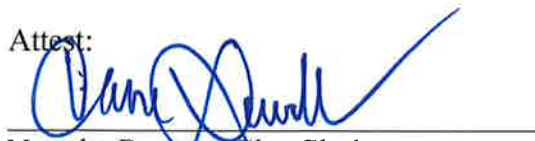
Ayes: Councilmembers Lebawsky, Glover, Stober, Hansen,
Nays: Councilmembers Mayor McEnerny-Ogle

Absent: Councilmembers Topper, Turley

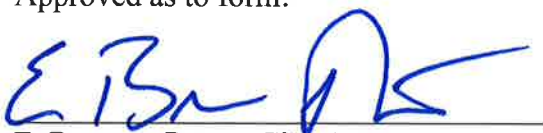
SIGNED this 21st day of May, 2018


Anne McEnerny-Ogle, Mayor

Attest:


Natasha Ramras, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Approved as to form:


E. Bronson Potter, City Attorney

ORDINANCE - 4

SUMMARY

ORDINANCE NO. M 4231

AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and Vancouver Municipal Code (VMC) Title 20; establishing Vancouver Comprehensive Plan and Zoning map designations for a property at 15306 Fourth Plain Boulevard which has requested annexation to the City of Vancouver, and authorizing the City Manager to enter into a Development Agreement, attached hereto as Exhibit A.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

LeAnne M. Bremer
Miller Nash Graham & Dunn, LLP
500 Broadway, Suite 400
P.O. Box 694
Vancouver, Washington 98666

Grantor : 5th Plain Creek Station, LLC
Grantee : The City of Vancouver
Abbreviated Legal : #18 OF SEC 12 T2NR2EWM
Assessor's Tax Parcel Nos. : 159108-000
Prior Excise Tax No. : NA
Other Reference No. : None

DEVELOPMENT AGREEMENT

1. **EFFECTIVE DATE:** _____, 2018

2. **PARTIES:** 5th Plain Creek Station LLC
c/o Hurley Development
915 Broadway, Suite 250
Vancouver WA 98660
hereinafter: "5th PLAIN"

City of Vancouver
P.O. Box 1995
Vancouver, WA 98668-1995
hereinafter: "CITY"

3. **RECITALS:**

3.1 At the time of the execution and recording of this Development Agreement 5th PLAIN will own the property legally described in **Exhibit A**.

3.2 5th PLAIN has requested annexation to the City of Vancouver, and the establishment of Comprehensive Plan and Zoning map designations of Commercial and CG on the southern portion of the property, and Urban High Density Residential and R-18 on the northern portion.

3.3 The Property is currently designated Mixed Use and MX by Clark County. The subject property is tax parcel number 159108-000, and located at 15306 Fourth Plain Blvd.

3.4 Vancouver Municipal Code 20.230 provides two methods for assigning a Comprehensive Plan and Zoning designation to newly annexed areas. The first method allows annexing properties to be assigned the City designations most consistent with their existing County designations. The second method allows for that the consideration of a different designation, if done concurrent with the annexation.

3.5 The Parties desire to memorialize the Comprehensive Plan and Zoning designations on the Property at the time of annexation and set forth additional provisions related to development of the Property.

NOW THEREFORE, the Parties agree as follows:

4. **Recitals.** The recitals are hereby incorporated into this Agreement and shall bind the Parties to the terms of this Agreement.

5. **Purpose.** The purposes of this Development Agreement are to:

5.1 Ensure that future development of the property is substantially consistent with conceptual site plan submitted by 5th PLAIN as part of its Comprehensive Plan and Zoning map designation request set forth in Recital 3.2, depicted on **Exhibit B** herein, pending further change to the site plan required through future site plan or subdivision review.

5.2 Ensure that future commercial development not include select commercial uses otherwise allowed in the proposed CG zone, which have limited employment density relative to the potential opportunities afforded by high traffic corridors such as Fourth Plain Blvd.

6. **Term.** The initial term of this Development Agreement shall be for twenty (20) years from the effective date of this Agreement, which may be extended by mutual agreement between the Owner of the Property and the City and approved by the City Council in accordance with state law.

7. **Conditions.**

7.1 **Conceptual Development Plan.** The proposed preliminary site plan for the Property depicted in **Exhibit B** attached hereto, is incorporated herein by this reference. Development of the site shall be in substantial conformance with **Exhibit B** and in conformance with any final Site Plan required and approved by or required by the City, or any alterations, changes or amendments thereto that are approved during any subsequent site plan approval process.

7.2 **Uses.** The Property uses shall be those allowed in the zoning districts applied to the Property upon annexation, except that commercial uses listed in VMC Table 20.430.030-1 of self-serve storage, non-accessory parking, and dog day care shall be prohibited.

8. **Successors.** This Development Agreement and all of its provisions shall be binding on the Parties and any and all of their assigns and successors in interest.

9. **Enforcement.** This Development Agreement may be enforced by the Parties through any remedy provided by law or in equity.

10. **Severability.** If any provision of this Development Agreement, or the application of the provision to any person or circumstance, is declared invalid, then the rest of the agreement or the application of the provision to other persons or circumstances shall not be affected.

11. **Authority.** Those signatories who sign on behalf of a limited liability company are expressly vested by the governing documents of such limited liability company which they purport to represent with the authority to bind such limited liability company in the manner in which such signatories have purported to bind their principal herein.

12. **Controlling Law.** In the event of any litigation arising hereunder, or with respect hereto, the law of the State of Washington shall control, and all signatories hereto, do hereby submit themselves personally to the jurisdiction of the courts of the State of Washington, and do hereby agree that any action arising hereunder may be instituted in Clark County Superior Court, if the parties are served including anywhere not within the State of Washington, by any method authorized by Washington Law.

13. **Required Public Hearing.** This Development Agreement is authorized by a Resolution of the City Council of the City of Vancouver following a hearing as required by RCW 36.70B.170.

14. **Extensions of Time for Performance.** Notwithstanding anything to the contrary contained in this Agreement, neither party shall be deemed to be in default where delays and performance or failure to perform are due to war, insurrection, strike or other labor disturbances, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, extended appeals by third parties or similar basis for excused performance which are not within the reasonable control of the party to be excused. Upon the request of either Party, an extension of time for such cause shall be granted in writing for the period of the forced delay, or longer, as may be mutually agreed upon.

15. **Vesting.** The Parties agree that the development of the Property and this Development Agreement vests as to the permitted uses, land use ordinances, regulations, and development standards in effect in Title 20 VMC as of the earlier of the date of any fully complete land use application being processed for approval with this Development Agreement, or the date of the execution of this Development Agreement. "Vesting" shall mean that the Property is entitled to be used and to implement a site plan or other land use permit or approval that is substantially consistent with that shown in **Exhibit B**, and that the Property is entitled to be eligible to receive land use approval of development proposals ("implementing land use approval(s)") that are consistent therewith, in accordance with the zoning, development and land use ordinances in effected upon the date of the vesting of this Development Agreement without any such application being subject to changes in ordinance, regulation, and development standards and regulations that are enacted or implemented subsequent to the date of vesting of this Development Agreement. Further, if an implementing land use approval has become final (not appealed), which is at variance with such ordinance, regulation, and development standards and regulations with the agreement of the applicant(s), the ordinance, regulation, and development

standards and regulations manifested in such implementing land use approval(s) shall become vested under this Development Agreement. This Development Agreement and the development standards in, and terms of, this Development Agreement govern during the term of this Development Agreement and may not be subject to an amendment to a zoning ordinance, land use regulation, or development standard adopted after the effect date of this Development Agreement except with the agreement of the applicant or owner; provided that an applicant or owner of the Property may elect to waive vesting as to an ordinance, requirement, condition or standard and proceed under any ordinance, requirement, condition or standard more recently in effect by the City of Vancouver as allowed under VMC 20.250.040. This vesting shall continue beyond the term of this Development Agreement as to any fully complete implementing land use application in process or granted by the City during the term of this Development Agreement, for the normal term of approval of any such application or approval. Any permit or approval issued by the City, including any implementing land use approval, after the vesting of this Development Agreement must be consistent with this Development Agreement.

16. **Exception to Vesting/Serious Threat to Public Health.** Nothing contained in this Development Agreement shall preclude the City from exercising any and all rights it has under RCW 36.70.170(4) to address issues of public health and safety.

17. **Construction.** This Development Agreement sets forth the entire agreement of the Parties. This Agreement shall be construed as a whole. No amendment, change or modification of any provision of this Agreement shall be valid unless set forth in writing and signed by both Parties. To the extent of any conflict with any City regulations which may otherwise govern the Property, the terms and conditions of this Development Agreement shall prevail.

18. **Binding Effect.** This Development Agreement, or a summary therefore, shall be recorded against the Property and shall run with the land subject only to the express conditions or limitations of this Agreement, and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties. Upon assignment of this Development Agreement or the conveyance of any parcel of the Property to which this agreement is applicable, the assignee/grantee shall be deemed to assume all rights, obligations and liabilities set forth in this Agreement as they relate to such parcel.

19. **Cooperation.** Each Party shall take such action (including, but not limited to the execution, acknowledgement and delivery of documents) as may reasonably be requested by the other Party for the implementation or continuing performance of this Development Agreement. In the event of any administrative, legal or equitable action or proceeding instituted by any person or party to this Agreement challenging the validity of any provision of this Agreement, or any subsequent action taken consistent with this Agreement, the Parties shall cooperate in defending such action or proceeding to settlement or final judgment, including all appeals. Each Party shall select its own legal counsel and retain such counsel at its own expense.

20. **Effective Date.** This Development Agreement will become effective on signature by the City of Vancouver and 5th Plain Creek Station LLC or successor.

DATED THIS ____ day of _____, 2018

Signature pages to follow

CITY OF VANCOUVER

By:

_____,
Eric J. Holmes, City Manager
Dated: _____

Attest:

_____,
City Clerk

Approved as to form:

_____,
City Attorney

STATE OF WASHINGTON)

: ss.

County of Clark)

I certify that Eric J. Holmes appeared personally before me and that I know or have satisfactory evidence that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the City Manager of the CITY OF VANCOUVER to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this ____ day of _____, 2018

NOTARY PUBLIC FOR WASHINGTON

My Commission Expires: _____

5th Plain Creek Station LLC, Owner

By: Hurley Development, LLC, its Manager

By: Ryan Hurley, its Manager

Dated: _____

STATE OF WASHINGTON)

: ss.

County of Clark)

I certify that Ryan Hurley appeared personally before me and that I know or have satisfactory evidence that he signed this instrument, on oath stated that he was authorized to execute the instrument as the Manager of Hurley Development, LLC, Manager of 5th Plain Creek Station LLC and to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2018

NOTARY PUBLIC FOR WASHINGTON

My Commission Expires: _____

EXHIBIT A

LEGAL DESCRIPTION

For APN/Parcel ID(s): 159108-000

Parcel I

The Southwest quarter of the Northwest quarter of Section 12, Township 2 North, Range 2 East of the Willamette Meridian, Clark County, Washington.

EXCEPT the South 28.28 rods of the East 28.28 rods.

ALSO EXCEPT the following described parcel of property:

COMMENCING at the Southwest corner of the Northwest quarter of said Section 12.

Thence North 01°30'26" East along the West line of said Northwest quarter of Section 12, 951.26 feet to the South line of that tract conveyed to Ronald E. Raley by deed recorded under Auditor's File # G714092 of Clark County Records and the TRUE POINT OF BEGINNING;

Thence South 01°30'26" West along said West line 250.47 feet to the South line of that tract conveyed to Torrence L. Speights by deed recorded under Auditor's File # G375849 of Clark County Records;

Thence South 01°30'26" West along said West line 3.79 feet to a point which bears North 88°37'05" West from a 1/2" iron rod set by Olson Engineering Inc. in 1976 as shown on the Record of Survey recorded in Book 4 of Surveys at Page 192 of Clark County Records;

Thence South 88°37'05" East 11.44 feet to said 1/2" iron rod;

Thence North 01°10'13" East 252.36 feet to another 1/2" iron rod set by Olson Engineering in said Record of Survey;

Thence continuing North 01°10'13" East 1.89 feet to a point which bears South 88°37'05" East from the True Point of Beginning;

Thence North 88°37'05" West 9.94 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPT that portion lying within NE Fourth Plain Blvd./Road.

ALSO EXCEPT that portion acquired by the State of Washington by the Stipulated Judgment and Decree of Appropriation filed November 6, 2002, under Clark County, Washington Superior Court Case No. 01-2-00977-3.

Parcel II

That portion of the Northwest quarter of the Northwest quarter of Section 12, Township 2 North, Range 2 East, Willamette Meridian, Clark County, Washington, described as follows:

Beginning at a 1/2 inch iron pipe marking the Southeast corner of Lot 22 of "Mountain View Meadows";

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ALTA Commitment (Adopted 06/17/2006)

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according to the plat thereof recorded in Volume G of plats at page 924, records of Clark County, Washington;

Thence North 01°26'54" East, along the East line of said Lot 22, a distance of 0.93 feet to an existing fence line and the TRUE POINT OF BEGINNING;

Thence South 87°59'25" East, along an existing fence line, 82.87 feet to a fence corner;

Thence continuing along an existing fence line, South 32°00'07" East, 7.33 feet to the South line of the Northwest quarter of the Northwest quarter of said Section 12;

Thence North 88°15'37" West, along the South line of the Northwest quarter of the Northwest quarter of said Section 12, a distance of 86.90 feet to the Southerly prolongation of the East line of said Lot 22;

Thence North 01°26'54" East, to and along the East line of said Lot 22, a distance of 6.48 feet to the TRUE POINT OF BEGINNING.

Also that portion of the Southwest quarter of the Northwest quarter of the Northwest quarter of said Section 12, lying Southerly of the South line of said plat of "Mountain View Meadows",

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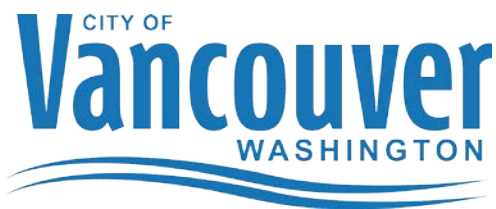
ALTA Commitment (Adopted 06/17/2006)

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[illegible]



MEMORANDUM

DATE: June 25, 2018

TO: Mayor McEnery-Ogle and Vancouver City Council

CC: Eric Holmes, City Manager
Lenda Crawford, Deputy City Manager

FROM: Julie G. Hannon, Parks and Recreation Director

RE: Youth Opportunity Pass (YOP) Program Update

Background

In 2015, the City of Vancouver entered into an inter-local agreement (ILA) with C-TRAN, Evergreen School District (ESD) and Vancouver School District to offer selected students in middle and high schools an opportunity to qualify for a Youth Opportunity Pass (YOP). To identify the selected students, an apple sticker is placed on each student's school badge. This pass allows students to ride C-TRAN at no charge and free access to many drop-in activities at Marshall Community Center (MCC) and Firstenburg Community Center (FCC). For the 2017 – 2018 school year, each partner agreed to offer the pass to all students, not just those selected, in both school districts which resulted in a major increase in community center usage in this age bracket. The pass is now trending among the student bodies and is known as the "Apple Pass".

Current Situation

The expansion of the program to all students in middle and high school led to an expected significant increase in students receiving the pass to FCC and MCC. Vancouver Parks and Recreation has approved 1,608 for the current school year, which represents a five-fold increase over the previous school year.

	2016-2017	2017-2018
Firstenburg passes	289	1,237
Marshall passes	37	371
Total	326	1,608

With the expansion of pass eligibility, we have seen growth of pass sign ups and usage throughout the school year. Anecdotal feedback indicates that many students find out about the opportunities through friends and then pursue the pass. Community center usage has consistently grown each month of the year with a peak of 440 weekly visits in May. On an average weekday in May, more than 50 students visit FCC and more than 20 visit MCC.

Youth Opportunity Pass Update

06/25/18

Page 2 of 2

There are a number of students who have become very consistent users of the facilities. They are well known to staff, and generally the heavy users are appreciative of the opportunity and are very responsible in their behavior. One student visited Marshall more than 100 days from January through May. This is almost 80% of days the facility is open. The community centers are truly a second home to several students in this program.

Impact and Programing:

The significant increase in passes and students visiting the facility is a very positive addition consistent with the mission and purpose of the community centers. However, impact from increased activity can also create the potential for user conflicts and facility management problems. There is no evidence that Apple Pass visitors create more issues than other youth. The number of Apple Pass customers who have been formally disciplined or suspended is between 10 and 15, or less than 1% of the total population.

Another challenge is to provide adequate programing for all students during various times of day. Students who are using the centers during afterschool hours (approx. 2:30 – 5:30 p.m.) have ample activities to participate in specifically open gym and wider use of the fitness center. Outside of these hours, students are often frustrated and left without as much to participate in. Additional staffing budget was added in the fall 2017 supplemental budget process, which was primarily focused on after school times. Parks and Recreation is seeking additional part-time staffing resources in the 2019-2020 biennial budget process.

2018-2019 School Year

A group of staff from C-TRAN, Evergreen Public Schools, Vancouver Public Schools and Vancouver parks and Recreation have met throughout the school year to discuss Apple Pass communication, process and program issues. We believe that we will see increased participation in the program in the next school year with increased awareness and ongoing collaboration. Looking forward, the group is working towards the following:

- Improve comprehensive communication about the program along with a streamlined application process.
- May pursue student testimonials to better promote the program and reinforce positive opportunities.
- Vancouver Parks and Recreation to propose staffing enhancements through the biennial budget process.
- Coordination with the school district on any student conduct issues to ensure that we are consistent and effective in reinforcing positive behavior expectations.