



**CITY COUNCIL REGULAR MEETING AGENDA**  
**Monday, October 17, 2016, 7:00 PM**  
**City Municipal Center, 616 NE 4th Avenue**

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NOTE: There are two public comment periods included on the agenda. Anyone wishing to address the City Council may come forward when invited; please state your name and address. Public comments are typically limited to three minutes, and written comments may be submitted to the City Clerk. Special instructions for public comments will be provided at the meeting if a public hearing or quasi-judicial matter is scheduled on the agenda.

**I. CALL TO ORDER**

**II. PLEDGE OF ALLEGIANCE**

**III. ROLL CALL**

**IV. PUBLIC COMMENTS**

**V. CONSENT AGENDA**

- A. Approve the minutes of the October 3, 2016, Camas City Council Meeting and the Workshop minutes of October 3, 2016.

 [October 3, 2016 Camas City Council Regular Minutes - Draft](#)

[October 3, 2016 Camas City Council Workshop Minutes - Draft](#)

- B. Approve the claim checks as approved by the Finance Committee.
- C. Authorize the write-off of the September 2016 Emergency Medical Services (EMS) billings in the amount of \$106,311.56. This is the monthly uncollectable balance of Medicare and Medicaid accounts that are not collectable after receiving payments from Medicare, Medicaid and secondary insurance. (Submitted by Pam O'Brien)
- D. Authorize the Mayor to sign a professional services agreement with Bell & Associates, Inc. in the amount of \$45,900 for Phase 2 Solid Waste Planning consultant services. (Submitted by Sam Adams)
- E. Authorize the Mayor to sign an interlocal agreement with East County Fire and Rescue (ECFR). This interlocal agreement will allow the Camas-Washougal Fire Chief to also act as the Fire Chief of ECFR for a trial period of one year. This item was discussed during the September 19, 2016, Council workshop. (Submitted by Nick Swinhart)

 [Solid Waste Consulting Contract Phase 2](#)

 [Interlocal Agreement with ECFR](#)





NOTE: Any item on the Consent Agenda may be removed from the Consent Agenda for general discussion or action.

**VI. NON-AGENDA ITEMS**


- A. Staff

- B. Council

## VII. MAYOR

- A. Announcements
- B. Mayor's Volunteer Spirit Award
  -  [October 2016 Camas United Methodist Church](#)
- C. Red Ribbon Week Proclamation
  -  [Red Ribbon Week Proclamation](#)
- D. National Arts and Humanities Month Proclamation
  -  [National Arts and Humanities Month Proclamation](#)
- E. Extra Mile Day Proclamation
  -  [Extra Mile Day Proclamation](#)

## VIII. MEETING ITEMS

- A. Ordinance No. 16-018 Drinking Water State Revolving Fund (DWSRF) Loan for Surface Water Transmission Mains  
Details: In June 2012, the City borrowed approximately \$8 million from the Drinking Water State Revolving Fund (DWSRF) for the initial phases of the Water Treatment Facility and Water Supply Project to bring surface water from the Jones and Boulder Creek watershed area to the City. In the fall of 2015, the City was awarded \$6.034 million in total proceeds from DWSRF for the next phase of the overall Water Supply Project. For DWSRF administrative reasons, the \$6.034 million awarded in 2015 was broken up into two separate loans. The first, which was approved by Council in December 2015 via Ordinance No. 15-031, was a \$2.6 million loan with 50% subsidy (or a loan principal forgiveness of \$1.3 million), 24-year loan term, and a 1.0% interest rate. Staff is recommending approval of the second loan, which is for \$3.434 million with a 20-year loan term and a 1.5% interest rate. Attached is the loan document and the loan Ordinance authorizing the City to enter into the \$3.434 million loan with the Washington State Public Works Board and approving the Loan Agreement.  
Presenter: Steve Wall, Public Works Director  
Recommended Action: Staff recommends Council move to adopt Ordinance No. 16-018 and publish according to law.
  -  [Ordinance No. 16-018](#)
  - [Loan Agreement](#)
- B. Parker Village Subdivision Final Plat Approval for Phase 2  
Details: The applicant is seeking final plat approval for Phase 2 of the Parker Village subdivision.  
Presenter: Robert Maul, Planning Manager  
Recommended Action: Staff recommends that Council move to approve the final plat for Phase 2 of the Parker Village subdivision.

 [Parker Village Staff Report](#)

[Plat Map Page 1](#)

[Plat Map Page 2](#)

## **IX. PUBLIC COMMENTS**

## **X. ADJOURNMENT**

NOTE: The City welcomes participation of its citizens in the public meeting process. Effort will be made to ensure anyone with special needs can participate. For more information call 360.834.6864.



## CITY COUNCIL REGULAR MEETING MINUTES - DRAFT

Monday, October 3, 2016, 7:00 PM

City Municipal Center, 616 NE 4th Avenue

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### I. CALL TO ORDER

Mayor Higgins called the meeting to order at 7:00 p.m.

### II. PLEDGE OF ALLEGIANCE

### III. ROLL CALL

Present: Greg Anderson, Bonnie Carter, Don Chaney, Tim Hazen, Steve Hogan, Melissa Smith and Shannon Turk

Staff: Bernie Bacon, Phil Bourquin, Pete Capell, Jennifer Gorsuch, Cathy Huber Nickerson, Robert Maul, Shawn MacPherson, Ron Schumacher and Alicia Pacheco (intern)

Press: No one from the press was present


### IV. PUBLIC COMMENTS

No one from the public wished to speak.

### V. CONSENT AGENDA

**It was moved by Council Member Chaney, seconded by Council Member Smith, to approve the Consent Agenda. The motion carried unanimously.**

- A. Approved the minutes of the September 19, 2016, Camas City Council Meeting and the Workshop minutes of September 19, 2016.

 [September 19, 2016 Camas City Council Regular Minutes - draft](#)  
[September 19, 2016 Camas City Council Workshop Minutes - draft](#)

- B. Approved the automated clearing house and claim checks numbered 131063 to 131180 in the amount of \$528,970.15; the automated clearing house, direct deposit, and payroll checks numbered 7101 to 7135 in the amount of \$1,815,559.35; and the September electronic payments of \$420,132.10; as approved by the Finance Committee.
- C. List as surplus 60 outdated portable and mobile Fire Department radios and authorized the Fire Chief to dispose of radios through an approved vendor. This item was discussed at Council Workshop on September 19, 2016. (Submitted by Nick Swinhart)
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## **VI. NON-AGENDA ITEMS**

### A. Staff

There were no items from staff.

### B. Council

There were no items from Council.

## **VII. MAYOR**

### A. Announcements

There were no announcements from Mayor Higgins.

### B. Disability Employment Awareness Month Proclamation

 [Disability Employment Awareness Month Proclamation](#)

Mayor Higgins proclaimed October as Disability Employment Awareness Month in the City of Camas.

### C. Manufacturing Month Proclamation

 [Manufacturing Month Proclamation](#)


Mayor Higgins proclaimed October as Manufacturing Month in the City of Camas.

## **VIII. MEETING ITEMS**

A. Public Hearing Regarding Ordinance No. 16-015 Establishing a Moratorium on Wireless Communication Facilities

Details: Conduct a public hearing to provide citizens an opportunity to give public testimony on Ordinance No. 16-015, an ordinance that establishes a moratorium on the establishment of new wireless communication facilities and has been adopted effective September 6, 2016, as an emergency ordinance. A hearing regarding Ordinance No. 16-015 is required to be held within 60 days of the adoption date.

Presenter: Phil Bourquin, Community Development Director

 [Ordinance No. 16-015 Adopted  
Moratorium Hearing Notice](#)

Mayor Scott Higgins opened the public hearing at 7:14 p.m.

The following members of the public spoke:

Adam Kluka, 7021 NW Friberg-Stunk Street, Camas

Mayor Higgins and Bourquin answered questions that were asked.

The public hearing was closed at 7:17 p.m.

B. Appointments to the Law Enforcement Officers and Fire Fighters (LEOFF) Disability Board

Details: Mayor Higgins recommends appointment of Council Members Melissa Smith and Don Chaney to serve on the LEOFF Disability Board. Melissa Smith's term will expire December 31, 2017. Don Chaney's term will expire December 31, 2018 and their terms are effective immediately.

Presenter: Jennifer Gorsuch, Administrative Services Director

**It was moved by Council Member Hogan, seconded by Council Member Anderson, to accept the LEOFF Disability Board Appointments as recommended by the Mayor. The motion carried unanimously.**

**IX. PUBLIC COMMENTS**

No one from the public wished to speak.

**X. ADJOURNMENT**

The meeting adjourned at 7:19 p.m.

NOTE: The City welcomes participation of its citizens in the public meeting process. Effort will be made to ensure anyone with special needs can participate. For more information call 360.834.6864.



## CITY COUNCIL WORKSHOP MEETING MINUTES - DRAFT

Monday, October 3, 2016, 4:30 PM

City Municipal Center, 616 NE 4th Avenue

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### I. CALL TO ORDER

Mayor Higgins called the meeting to order at 4:30 p.m.

### II. ROLL CALL

Present: Greg Anderson, Bonnie Carter, Don Chaney, Tim Hazen, Steve Hogan, Melissa Smith and Shannon Turk

Staff: Sam Adams, Bernie Bacon, Pete Capell, Phil Bourquin, Sarah Fox, Jennifer Gorsuch, Cathy Huber Nickerson, Mitch Lackey, Robert Maul, Ron Schumacher, Connie Urquhart, Steve Wall and Alicia Pacheco (intern).

Press: Heather Acheson, Camas-Washougal Post-Record

### III. PUBLIC COMMENTS


No one from the public wished to speak.

### IV. WORKSHOP TOPICS

#### A. Downtown Camas Association (DCA) Update to City Council

Details: The DCA updated Council regarding their current activities.

Presenter: Carrie Schulstad, Executive Director and Caroline Mercury, Board President

-  [DCA Update to Council](#)
- [Survey Results from Camas Days](#)
- [Street Painting](#)
- [Completed Street Painting](#)

#### B. Utility Tax Discussion

Details: Staff continued the Utility Tax discussion from prior workshops. This presentation focused on the role of the Utility and Transportation Commission, impact of recessions on property taxes, and the Utility Tax proposal for the City's 2017-2018 Budget.

Presenter: Cathy Huber Nickerson, Finance Director

-  [Utility Tax Presentation](#)

Huber Nickerson reviewed the Utility Tax information with Council. Discussion ensued. This item will be placed on a future agenda for Council's consideration.

C. 2017 Fee Schedule Presentation

Details: As part of the 2017-2018 Budget preparation, the 2017 Fee Schedule was prepared using 1.5% cost escalation and rounded to the nearest dollar. The presentation provided a review of restructured and additional fees for the Fire Marshal's Office, Parks and Recreation, and Utility Billing. Staff also presented updated Equipment Rental Rates for discussion.

Presenter: Cathy Huber Nickerson, Finance Director

 [2017 Fee Schedule Update Presentation](#)

This item will be placed on a future agenda for Council's consideration.

D. 2017-2018 Mayor's Recommended Budget

Details: Staff provided a high level review of the Mayor's 2017-2018 Recommended Budget to City Council. A review of baseline and the included decision packages was also provided. Further discussion for the Operating Budget is scheduled for October 17, 2016, with a Capital Budget Discussion scheduled for November 7, 2017.

Presenter: Cathy Huber Nickerson, Finance Director

 [2017-2018 Mayor's Recommended Budget](#)  
[2017-2018 Recommended Budget Presentation](#)

This item will be placed on a future agenda for Council's consideration.

E. Consultant Services for Solid Waste Planning Phase 2

Details: Bell & Associates, Inc. has completed Phase 1 of the Solid Waste Planning effort. Staff had elected to have the consultant complete the project in two phases with the first phase being a technical analysis of the City's current solid waste management system. The Phase 2 work will be focused on recommended enhancements to the Solid Waste Department's management and operational practices and planning for expected growth over the next twenty years. Bell & Associates, Inc. submitted a scope of work and fee in the amount of \$45,900 for the second phase. The project will be funded with 2016 Solid Waste funds that were allocated through the 2016 Spring Omnibus Budget Package.

Presenter: Sam Adams, Utilities Manager

 [Solid Waste Consulting Contract Phase II](#)

This item will be placed on a future agenda for Council's consideration.

F. Public Works Miscellaneous and Updates

Details: This is a placeholder for miscellaneous or emergent items.

Presenter: Steve Wall, Public Works Director

Wall provided an update on the following projects: NW 6th and Norwood Intersection Improvements (roundabout), Franklin Neighborhood Improvements, Cooper's View Park Development, and the Water Treatment Plant and Transmission improvements.


G. Parker Village Phase 2 Final Plat

Details: The applicant requested final approval for Phase 2 of the Parker Village



subdivision.

Presenter: Robert Maul, Planning Manager

-  [Parker Village Phase 2 Final Plat, Page 1](#)
- [Parker Village Phase 2 Final Plat, Page 2](#)

This item will be placed on a future agenda for Council's consideration.

- H. Urban Tree Program and the Department of Natural Resources Interagency Agreement Details: In June, the City adopted a revised Comprehensive Plan, Camas 2035. Through the process of updating the comprehensive plan, citizens were vocal about their desire for improvement to the City's tree preservation regulations. In response, the City applied for and was awarded a grant from the State of Washington Department of Natural Resources to develop an Urban Tree Program (Agreement #IAA 16-338). The grant period runs until May 31, 2017, and is a 50% cost share with the City. An initial work plan to develop the Urban Tree Program was developed by staff and is attached. It is expected that the project will include the following work: current zoning diagnosis; review of comprehensive plan to ensure the new codes will be consistent; drafting a tree ordinance, including graphics; updating the Design Standards Manual (or creating a Tree Manual); and creating outreach materials. The consultant will create outreach materials that will increase the public's knowledge of tree care and the new ordinance.
- Presenter: Sarah Fox, Senior Planner

-  [Initial Work Plan](#)

Council did not voice any objections to the initial work plan and supports the ad hoc and steering committees.

- I. Community Development Miscellaneous and Updates  
Details: This is a placeholder for miscellaneous or emergent items.  
Presenter: Phil Bourquin, Community Development Director

Bourquin commented about the Urban Tree Program and provided a general Community Development Department update.

- J. City Administrator Miscellaneous Updates and Scheduling  
Details: This is a placeholder for miscellaneous or scheduling items.  
Presenter: Pete Capell, City Administrator

Capell informed Council about the November 1, 2016 Salary Commission Public Hearing regarding the Mayor and Councilmembers compensation increase for 2017. He updated Council about current union bargaining underway.

## V. COUNCIL COMMENTS AND REPORTS

Hazen commented about the NW 6th and Norwood Intersection Improvements (roundabout), the Finance Committee work, and the Parks & Recreation Committee work. He also attended the Lower Columbia River Estuary Partnership presentation.

Turk thanked Anderson, Mayor and Capell for attending the Give More 24! swing

in the park fund-raiser. She attended the new Washougal Waterfront Park grand opening.

Chaney, Mayor and Hazen commented about the Camas High School Papermaker football game.

Hogan and Mayor commented about the Camas Athletics Hall of Fame and the Camas-Washougal Economic Development Association (CWEDA) efforts.

Anderson commented about C-TRAN's budget and the upcoming Association of Washington Cities (AWC) regional meeting.

Carter attended the State of the Community and commented about the upcoming Sister City, Taki, visit.

Smith attended the Design Review Committee meeting. She announced that the Downtown Washougal Pumpkin Harvest is Wednesday, October 19, 2016 and the Camas-Washougal Chamber Luncheon is October 20, 2016.

Mayor updated Council about his trip to Taiwan.

#### **VI. PUBLIC COMMENTS**

No one from the public wished to speak.

#### **VII. ADJOURNMENT**

The meeting adjourned at 6:31 p.m.

NOTE: The City welcomes participation of its citizens in the public meeting process. Effort will be made to ensure anyone with special needs can participate. For more information call 360.834.6864.

**CONTRACT AGREEMENT**

**BETWEEN**

**Bell & Associates, Inc.**  
1628 NW 33<sup>rd</sup> Way  
Camas, WA 98607

**AND**

**CITY OF CAMAS**  
Public Works Department / SW  
Division  
616 NE 4<sup>th</sup> Ave.  
Camas, WA 98607

**PROJECT: SOLID WASTE COLLECTION PLANNING SERVICES**

**THIS AGREEMENT** combines all understandings between Parties regarding professional services for the Project named above and supersedes all prior proposals, quotations, solicitations, negotiations, representations, agreements or understandings, whether written or oral.

The performance of the professional services herein described and authorized by the **City of Camas**, as well as payment for such services, shall be in accordance with the terms and conditions presented in this Agreement and the following Sections and Exhibits which are attached and incorporated by reference which, taken together, shall constitute the whole Agreement.

- Section I - Relationship of the Parties**
- Section II - Contract Provisions**
- Exhibit A - Scope of Work and Task Plan**
- Exhibit B - Project Budget/Fee Schedule**

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**APPROVED:**  
**BELL & ASSOCIATES, Inc.**

**APPROVED:**  
**CITY OF CAMAS**

\_\_\_\_\_  
**Christopher J. Bell**  
President

\_\_\_\_\_  
**Scott Higgins**  
Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

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## **SECTION I: RELATIONSHIP OF THE PARTIES**

The **City of Camas** ("Client") desires consulting services to assist the Solid Waste Division in evaluating its collection operations system. In furtherance of the Project, the Client hereby contracts with **Bell & Associates, Inc.** to perform the professional services described in Exhibit A of this Agreement. All services shall be performed under the joint supervision of the Client's Representative, Sam Adams, or a designee or designees identified in writing to Bell & Associates by the Client's Representative.

This Agreement shall the benefit of and be binding upon successors, assigns, and legal representatives of each of the Parties hereto. Any assignment or transfer of an interest in this Agreement by either Party without the written consent of the other shall be void.

## **SECTION II: CONTRACT PROVISIONS**

**1. Scope of Work:** Bell & Associates, Inc. shall perform the service for the Client which as defined in Exhibit A Scope of Work, which is attached hereto and hereby incorporated by this reference.

**2. Time for Completion:** The Scope of Work for the conduct of the study as set forth above is anticipated to be completed by Bell & Associates, Inc., within a time frame approximating that shown by the following schedule:

**Notice to Proceed:** On October 18, 2016

**Completion of Draft Analysis:** within 6 months of Notice to Proceed (NTP)

**Presentations to Council:** within 1 months of NTP

**Completion of Project:** On or before April 18, 2017

Bell & Associates, Inc. agrees to perform the work described in the Scope of Work according to the contract schedule. Any delays shall be agreed upon by Bell and Associates, Inc. and Client prior to the due date. Changes in the schedule caused by Client delays may require additional compensation and a change order.

**3. Payment:** Bell & Associates, Inc. will be paid by the Client on a time and materials basis as outlined below and in accordance with the standard billing rates attached hereto as Exhibit B. Bell & Associates, Inc. agrees to perform the services as set forth in Exhibit A at a cost not to exceed \$45,900. It is understood that Bell & Associates, Inc. will not exceed this amount without the Client's prior written authorization.

Payment to Bell & Associates, Inc. for services set forth in Exhibit A shall be: an amount equal to Bell & Associates, Inc.'s standard billing rates as set forth in Exhibit B multiplied by the actual hours worked.

Direct expenses will not be charged except as identified in Exhibit B. Payment shall be made monthly upon receipt and approval of Bell & Associates, Inc.'s invoice.

**4. Supplemental Agreements:** Supplemental Agreements may be entered into upon mutual written agreement that would increase or decrease the scope and associated costs and payment.

**5. Work to be Completed:** All work accomplished will be performed under the direction of the Client Representative or his/her Designee.

**6. Termination:** This contract may be terminated by the Client by giving Bell & Associates, Inc. written notice of such termination no fewer than fifteen (15) days in advance of the effective date of said termination. Bell & Associates, Inc. shall be entitled to terminate this agreement only in the case of a material breach by the Client, and upon failure of the Client to remedy said breach within fifteen (15) days of said notice.

**7. Indemnity:** Bell & Associates, Inc. shall comply with all Federal Government, State and local laws and ordinances applicable to the work to be done under this Agreement.

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Bell & Associates, Inc. hereby agrees to hold the Client harmless from and shall process and defend at its own expense, specific claims, demands or suits at law or equity, arising from Bell & Associates, Inc. negligent performance of the provisions of this Agreement; provided that if the Client and Bell & Associates, Inc. are concurrently negligent, Bell & Associates, Inc. shall be required to indemnify and defend only in proportion to negligence of Bell & Associates, Inc. These indemnity provisions shall not require Bell & Associates, Inc. to defend or indemnify the Client against any action based solely on the alleged negligence of the Client.

**8. All Work Produced is Property of the Client:** The materials, computer programs, reports, calculations, analyses, etc., generated by Bell & Associates, Inc. under this contract including the final report shall become the property of the Client. The Client agrees that if it uses products prepared by Bell & Associates, Inc. for purposes other than those intended in this agreement, it does so at its sole risk and agrees to hold Bell & Associates harmless thereafter.

The Contractor shall not assign or subcontract any portion of the contracted activities without obtaining prior written approval from the Client.

**9. Integrated Agreement:** This agreement together with attachments or addenda represents the entire and integrated agreement between the Client and Bell & Associates, Inc. supersedes all prior negotiations, representations, or agreements written or oral. This agreement may be amended by written instrument signed by both the Client and Bell & Associates, Inc.

**10. Independent Contractor:** The parties intend that an independent Contractor/Client relationship will be created by this agreement. No agent, employee, or representative of Bell & Associates, Inc. shall be deemed to be an agent, employee, or representative of the Client for any purpose. Bell & Associates, Inc. shall be solely responsible for all acts of its agents, employees, representatives, and subcontractors during the performance of this contract.

**11. Equal Opportunity:** Bell & Associates, Inc. agrees that it shall not discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, sexual orientation, age, marital status, political affiliation or belief, or the presence of any sensory, mental or physical handicap in violation of the Washington State Law Against Discrimination (RCW chapter 49.60) or the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) In the event the Contractor violates this provision, the County may terminate this agreement immediately and bar the Contractor from performing any services for the County in the future.

**12. Safeguarding of Personal Information:** Bell & Associates, Inc shall not use or disclose Personal Information, as defined in RCW 19.255.010, in any manner that would constitute a violation of federal law or applicable provisions of Washington State law. Contractor agrees to comply with all federal and state laws and regulations, as currently enacted or revised, regarding data security and electronic data interchange of Personal Information.

Contractor shall ensure its directors and subcontractors use Personal Information solely for the purposes of accomplishing the services set forth in this agreement. Contractor shall protect Personal Information collected, used, or acquired in connection with the agreement, against unauthorized use, disclosure, modification or loss. Contractor and its subconsultants agree not to release, divulge, publish, transfer, sell or otherwise make Personal Information known to unauthorized persons without the express written consent of the City of Camas or as otherwise authorized by law. Contractor agrees to implement physical, electronic, and managerial policies, procedures, and safeguards to prevent unauthorized access, use, or disclosure of Personal Information.

Consultant shall make the Personal Information available to amend as directed by the City of Camas and incorporate any amendments into all the copies maintained by the Contractor or its subcontractors. Contractor shall certify its return or destruction upon expiration or termination of

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the agreement and the Contractor shall retain no copies. If Contractor and the City of Camas mutually determine that return or destruction is not feasible, the Contractor shall not use the Personal Information in a manner other than those permitted or authorized by state and federal laws.

Contractor shall notify the City of Camas in writing immediately upon becoming aware of any unauthorized access, use or disclosure of Personal Information. Contractor shall take necessary steps to mitigate the harmful effects of such use or disclosure. Contractor is financially responsible for notification of any unauthorized access, use or disclosure. The details of the notification must be approved by Public Entity.

Any breach of this clause may result in termination of the agreement and the demand for return of all Personal Information.

**13. Notices:** Notices to the Client shall be sent to the following address:

**City of Camas Sanitation / Garbage Collection Division**

Attention: Sam Adams, P. E., Utilities Manager

616 NE 4<sup>th</sup> Ave.

Camas, WA 98607

360-817-7003

Notices to Bell & Associates shall be sent to the following address: Bell & Associates, Inc.

Attention: Chris Bell, President

1628 NW 33<sup>rd</sup> Way

Camas, WA 98607

360-210-4344

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## **EXHIBIT A: SCOPE OF WORK**

# Camas Phase II Scope of Work

### **Task 1: Planning and Operations**

Utilizing information collected and analyses conducted in Phase 1, an assessment of the City's system will be completed. The project team will address recommended enhancements to the Department's management practices in a minimum of, but not limited to, the following areas:

1. Commercial collection / downtown service
2. Collection productivity
3. Driver scheduling / Driver augmentation
4. One-side collection in tight access areas
5. Front load container service for high volume waste generators
6. Research electronic route / on board routing
7. Review and update the duties of the drivers and/or lead driver
8. Address customer service calls and dispatch responsibility
9. Expected growth over the next twenty years
10. Compliance with Clark County SWMP

The Project Team will analyze the specific issues and provide the City with recommendations based on the following criteria: costs, consistency with City objectives, benefits, impacts, advantages, disadvantages, best practices, operational feasibility, institutional compatibility, technological reliability, regulatory risk / compliance, and other factors to be mutually determined by the City and Project Team members.

### **Task 2.0 Collection System Reroute**

**Task 2.1:** Attend and present during a work session with City Council the technical memorandum of collection operations. The objective is to discuss the planning process, provide background information, and solicit input.

**Task 2.2:** Create collection routes for each day under the existing system. The routes will be segregated between residential and business / institutional. Routes will be determined based on the neighborhood grid, density, dead ends (cul-de-sac), and customer habits.

Work with the Garry Reed and the Clark County GIS personnel to develop the sequential route order. The output of the GIS system will be the maps and sequential route sheets for direct use by the driver's and for input into the Springbrook billing system.

Route sheets will be developed to assist with the customer route audit and performance measurement. The number of collection routes will vary from three to four per day, depending on the number of customers. Because there is only one auditor, the audit will be completed over a four week period. Productivity measurements will also be taken over the same period.

**Task 2.3:** Complete a route audit to ensure customer data is accurate for the level of service provided. To manage costs, a City employee or temporary hire will be utilized to complete the route

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audits. The auditor will be provided with the daily route sheet in sequential order. The auditor will note the customer's level of service and compare to the City billing records. Other items to be noted is the condition of the carts, spacing of the carts, and if the driver has to leave the cab in order to collect the cart or tub. The Project Consultants will establish the parameters of the audit and manage the process in conjunction with City managers.

**Task 2.4:** Measure each route for collection productivity to assist with the design of collection routes that are based on expected on-route time. Utilize the Network Fleet system to measure route time and the daily route sheets to measure customer counts, extras, and other usable information.

**Task 2.5:** Meet with managers from Waste Connections to solicit input on current customer counts and route expectations (areas, number of houses, etc.) for the reroute.

**Task 2.6:** Review the City's planning documents, current and projected residential subdivisions, and the sewer infrastructure forecast to project the annual residential and commercial builds over the next ten years. The estimated build-outs will be considered when the new route maps are designed.

**Task 2.7:** Garry Reed will test run projected routes to research the areas and gather information necessary for the design of the new routes.

**Task 2.8:** Using information gathered from the previous tasks, work in conjunction with City collection personnel on the proposed layout of the collection routes. Utilize heuristic routing methods to maximize on-route productivity as well as addressing collection hindrances.

**Task 2.9:** Work with Clark County GIS personnel to develop the sequential route order. The output of the GIS system will be the stand-alone maps and a sequential route data (CSV files) to input into Springbrook billing system. The Springbrook system will generate the route collection sheets.

**Task 2.10:** Analyze the new routes with the drivers to determine if changes are required. Amend the new routes as needed.

**Task 2.11:** Assist with the development of the education and outreach materials for the rerouting / customer service changes.

**Task 2.12:** Go live with the new collection routes.

### **Task 3: Reroute Technical Memorandum**

Memorandum will be comprised of the findings from Task 1 and 2.1 through 2.9 into a succinct document with a Power Point Executive Summary and presented to City Council during a work session.



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#### **Task 4: Cost of Service / Calculation of Rates**

Current budget and expected results will be the basis for the calculation of the cost of service and the associated collection rates. A rate model will be developed based on the prior project's work to complete the following:

- Calculate the cost of service for residential and commercial customers
- Calculate the annual rates to be assessed over a 5 year period.
- Complete a truck and asset replacement schedule with costs for future years

#### **Task 5: Prepare Final Report / Plan**

Based on review comments received from City staff and other appropriate stakeholders, incorporate the technical memorandums, cost of collection services, and route design into the final report / plan.

**EXHIBIT B: PROJECT BUDGET**

**Phase II Budget / Proposed Schedule**

Task	Task Description	Completion Date	C. Bell Hours	G. Lima Hours
Task 1	Planning and Operations	December 31	24	12
Task 2.1	Meeting with City Council	TBD	3	0
Task 2.2	Route Existing System	Oct 10 to Oct 14	6	40
Task 2.3	Route Audit	Oct 24 to Nov 4	22	8
Task 2.4	Route Measurements	Oct 24 to Nov 4	12	12
Task 2.5	Meeting with WCI Mgrs.	Week of Nov 4	6	6
Task 2.6	Review of City Growth	November 4	8	4
Task 2.7	Test run Routes	TBD after Task 2.6	0	0
Task 2.8	Reroute Design	TBD after Task 2.6	16	24
Task 2.9	Map New Routes in GIS	TBD after Task 2.6	8	16
Task 2.10	Analyze Reroute with Drivers	TBD after Task 2.6	4	4
Task 2.11	Assist with Outreach	TBD after Task 2.6	8	8
Task 2.12	Implement New Routes	TBD after Task 2.6	0	0
Task 3	Reroute Technical Memo	TBD after Task 2.6	24	8
Task 4	Cost of Service Rates	TBD after Task 2.6	16	0
Task 5	Prepare Final Report / Plan	TBD after Task 2.6	24	8
			157	150
		Labor Cost	\$23,550	\$18,750
		Gary Lima Travel (2 x to Camas)		\$3,600
		<b>Total Project Cost</b>		<b>\$45,900</b>

The fees for Phase II of the project are based on the estimated time to complete. This proposed fee is a not to exceed fee based on the outlined work program. If the project can be completed in less than our estimates, then Bell & Associates will invoice accordingly. If we find it will take considerably more time, due to a change in scope, we will discuss any changes with City staff and will not proceed without prior written authorization. Fees for the project are estimated at \$45,900 (307 hours x a blended rate of \$137 per hour) plus \$3,600 of travel expenses for Gary Lima.

# INTERLOCAL AGREEMENT FOR FIRE CHIEF ADMINISTRATION AND MANAGEMENT SERVICES

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into by and between the CITY OF CAMAS, a Washington municipal corporation (the "City") and EAST COUNTY FIRE AND RESCUE, a Washington municipal corporation, (the "District").

WHEREAS, the City of Camas and East County Fire and Rescue want to improve the efficiency and effectiveness of their fire suppression and protection services and emergency medical response services; and,

WHEREAS, the City of Camas and East County Fire and Rescue may desire to functionally consolidate the operations of their fire departments within a time frame to be determined; and,

WHEREAS, the City of Camas and East County Fire and Rescue since 1978 have maintained a close partnership providing for ambulance transport services and sharing of resources; and,

WHEREAS, the City of Camas and East County Fire and Rescue are authorized, pursuant to Chapter 39.34 of the Revised Code of Washington, to enter into an inter-local cooperation agreement which allows the City of Camas and East County Fire and Rescue to cooperate with each other to provide high quality services to the public in the most efficient manner possible.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the City of Camas and East County Fire and Rescue hereto agree as follows:

## **Section 1. Definitions**

**1.1 Definitions.** The following definitions shall apply throughout this Agreement.

1. District: East County Fire and Rescue
2. District Personnel: Employees of the District working within the District.
3. City: The City of Camas
4. CWFD: Camas-Washougal Fire Department
5. Fire Chief: The Fire Chief of the Camas-Washougal Fire Department
6. Commission/Commissioners: The Board of Commissioners of East County Fire and Rescue

## **Section 2. Services Provided**

**2.1 Services provided by the City.** The City agrees to provide administrative and management services to the District by utilizing the City Fire Chief via a contractual basis to provide those services that are reasonably necessary to assist the District with administrative functions for the District, including budget development, financial management, personnel management, and collective bargaining.

**2.1.1** The Fire Chief shall provide those services necessary to direct, control and support District operations including, but not limited to, fire suppression, fire protection and prevention, hazardous material response, rescue response, and basic life support emergency medical services.

**2.1.2** The Fire Chief, while remaining an employee of the City, shall be the designated District Fire Chief for purposes of statutes and District rules or codes.

**2.1.3** The District shall be responsible for and shall continue to provide Deputy Chief services, as well as all accounting, payroll and human resources support for the District unless otherwise mutually agreed between the District and City.

**2.1.4** All volunteer firefighters of the District and City shall provide services as directed by the Fire Chief and officers. Unless specifically designated, no rule regarding the volunteer organization, funding, duties, or operations, shall be modified by this Agreement without action taken by each respective department.

**2.1.5** All income received by each entity regardless of source including, without limitation, property taxes, fees, donations, grants, or other forms of revenue, shall belong to each organization respectively upon its receipt by that agency without claim by the other organization. This provision shall not apply to the Three Party EMS Agreement.

**2.1.6** All other costs and expenses of providing fire protection, emergency response, and emergency medical services and transport, to the extent not described in this document, shall remain the responsibility of each respective Department. This provision shall not apply to the Three Party EMS Agreement.

### **Section 3. Employment**

**3.1 Fire Chief Position Cost Sharing.** During the term of this agreement, the City and the District will share the salary and associated benefits for the Fire Chief as described in Exhibit "B."

**3.2 Invoicing and Payment.** The City shall be solely responsible for paying all salary and benefits to the Chief. The City shall invoice the District for the amount identified in Section 3.1 on an equal monthly basis, or as otherwise agreed by the parties.

**3.3 Employment Status of Fire Chief.** The Fire Chief shall be an employee of City and shall not be an employee of District. For purposes of workers' compensation coverage and employer immunities, the Fire Chief shall be considered as an employee of the District that the Fire Chief is working for at the time an injury is incurred. The Fire Chief shall document the Fire Chief's consent to this arrangement by executing the consent form attached as Exhibit A.

**3.4 Supervision and Assignment of District Personnel.** District Personnel shall be supervised and be under the direction and control of the Deputy Fire Chief of the District who will report to the Fire Chief in the performance of their duties. The job duties of such personnel shall not change. Work

provided and directed by the personnel, and directed by the Fire Chief, shall be consistent with each member entity's current collective bargaining agreement.

**3.5 Indemnification Regarding District Personnel Claims.** The District shall indemnify, defend and hold the City harmless from any and all demands, claims or actions by District Personnel, which arise out of, or relate to, events that occurred prior to the effective date of this Agreement.

**3.6 Authority and Responsibility of the Fire Chief.** Subject to the terms of this Agreement, the Fire Chief shall have management authority over the District and District Personnel through the Deputy Chief of the District, including but not limited to the following:

- a.) Day to day operations
- b.) Employee assignments and job duties
- c.) Staffing
- d.) Station apparatus assignment
- e.) Allocation of resources
- f.) Personnel management including discipline in accordance with District policy, procedure, and collective bargaining agreements.
- g.) Development and implementation of the District fire budget with expenditure authority consistent with District policy and procedure.
- h.) Implementation of policies and procedures.
- i.) All duties and responsibilities of the District's Fire Chief as set forth in District job descriptions, policies and procedures which may be changed from time to time in the sole discretion of the District Board of Commissioners. Further roles and responsibilities of the Fire Chief will be contained in Exhibit "B" of this document.

#### **Section 4. Reporting and Representation**

**4.1 Oversight.** The City and the District shall consult with each other at regular intervals with respect to the provision of Services under the terms and conditions of this Agreement. The elected officials or designated representatives of the City and the District shall meet at least monthly to review this agreement and discuss any necessary amendments to this Agreement.

**4.2 Reporting.** The Fire Chief shall report to the District Commissioners with respect to the operations of ECFR. The Commissioners and Fire Chief will develop regular reporting procedures. The Fire Chief or designee will provide periodic reports as directed by the District Board of Commissioners and attend District staff, Board and other meetings as deemed necessary by the

Commission.

**4.3 Personnel Action.** In the event the Fire Chief proposes to take a personnel action reasonably likely to result in a grievance, respond to a grievance, or obligate District funds for a purpose not reasonably anticipated in the District's budget, the Fire Chief must obtain the Commissioner's timely written approval prior to taking such action.

**4.4 Representation.** The City may represent the District on intergovernmental boards or on matters involving the District when requested by the Commission. The District reserves the right to represent itself in any matter in which the interests of the District and the City are not mutual.

## **Section 5. Assessment of Proceeding to Full Functional Consolidation**

**5.1 Assessment.** It is the intent of the parties to assess the effectiveness of this Agreement to determine the viability of future collaboration and partnership between the parties. The viability of future full functional consolidation will be measured by value-added service delivery, community acceptance, efficiency and cost effectiveness.

## **Section 6. Term of the Agreement**

**6.1 Term.** This Agreement shall be effective on November 1, 2016 and will continue for a one year trial period, unless terminated earlier as provided herein or extended by mutual agreement of the parties.

**6.2 Termination.** This Agreement may be terminated by mutual agreement of the parties at any time. Either party may terminate this agreement for any reason on sixty (60) days written notice to the other unless it is mutually agreed to terminate the agreement earlier.

## **Section 7. District and City Are Independent Governments**

**7.1 District and City are Independent Governments.** The parties hereto are independent governments. Except for the specific terms herein, nothing herein shall be construed to limit the discretion of the governing bodies of each party. Specifically and without limiting the foregoing, the City shall have the sole discretion and the obligation to determine the exact method by which the Services are provided within the geographical boundaries of the City and the District.

## **Section 8. Liability and Insurance**

**8.1 Hold Harmless Regarding Employment Claims.** The District agrees to hold harmless the City, its officers, officials, employees and volunteers from any and all claims, lawsuits, costs, including reasonable attorneys' and expert witness fees, losses and judgments arising out of personnel or employment claims and/or related lawsuits brought by District's employees which arise out of, or

relate to, events that occurred during the effective term of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

**8.2 Hold Harmless.** The District shall defend, indemnify, and hold harmless the City, its elected officials, officers, volunteers and employees from any and all claims, injuries, damages, losses, or suits, including attorney's fees arising out of or in connection with performance of this Agreement, except for injuries and/or damages caused solely by the City's gross negligence or intentional acts of the party or its employees or officers.

**8.3 Insurance.** Upon request, District shall provide City, within five (5) business days, with evidence of general liability insurance in form and amounts reasonably acceptable to City. The insurance requirement of the City shall be fulfilled by the City's membership and coverage in WCIA, a self-insured municipal insurance pool.

## **Section 9. Dispute Resolution**

**9.1** The Parties agree to make all reasonable efforts to resolve through informal, good faith negotiations any disputes concerning the terms and conditions or performance of this Agreement. In the event of a dispute, notice of the dispute shall be provided in writing and shall be delivered in the manner set forth in Section 11. The notice shall set forth with reasonable specificity the factual basis for the claimed dispute. Both Parties shall jointly cooperate to informally resolve any disputes as quickly and efficiently as possible, but in any event not more than sixty (60) days from the date of the notice unless extended by mutual agreement of the Parties.

**9.2** If a dispute cannot be resolved through direct discussions, mediation may, by mutual consent, be initiated. In the event the Parties determine to initiate mediation, a mutually acceptable mediator shall be selected by the Parties for the purpose of facilitating the mediation process. The mediator shall be selected based on his or her expertise with the nature of the matter in dispute and their ability to facilitate a settlement. The Parties agree to provide all documentation and information requested by the mediator and in all other regards to cooperate fully with the mediator. The costs of mediation shall be shared equally between the Parties.

**9.3** In the event the dispute is not resolved in mediation, or the Parties do not agree to mediation, the Parties may pursue any other form of relief provided by law. At all times prior to resolution of the dispute, the Parties shall continue to perform and make any required payments under this Agreement in the same manner and under the same terms as existed prior to the dispute.

## **Section 10. Filing of Agreement**

**10.1** This Agreement shall be filed with the city clerk of Camas, with the county auditor, or, alternatively, listed by subject on the public agency's web site or other electronically retrievable public source.

**Section 11. Notices**

**11.1** All notices required by this Agreement shall be in writing and shall be deemed to have been given at the time of delivery if personally delivered, or three calendar days after the time of mailing, if mailed by first class mail postage prepaid. All notices and other material to be delivered under this Agreement shall be delivered or mailed to the following addresses:

**11.2** Notice to Camas shall be sent to:

Camas City Administrator  
616 NE 4<sup>th</sup> Avenue  
Camas, WA 98607

**11.3** Notice to District shall be sent to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Section 12. Compliance with Laws**

**12.1** The Parties shall comply with all applicable state, federal, and local laws in carrying out the terms of this Agreement.

**Section 13. Modification**

**13.1** No modification or amendment to this Agreement shall be valid unless evidenced in writing and properly agreed to, and signed, by both Parties.

**Section 14. Interpretation**

**14.1** This Agreement is and shall be deemed jointly drafted and written by both Parties.

**Section 15. Laws and Venue**

**15.1** The Agreement shall be interpreted in accordance with the laws of the State of Washington in effect on the date of execution of this Agreement.

**Section 16. Property Ownership.**

**16.1** This Agreement does not provide for jointly owned property. All property presently owned or hereafter acquired by one party to enable it to perform the services required under this Agreement, shall remain the property of the acquiring party in the event of the termination of this agreement.



**Section 17 Administration.**

**17.1** This Agreement shall be administered by the Mayor of the City and District Commissioners.

**Section 18.** This Agreement shall be filed with the City Clerk of the City of Camas, with the Clark County Auditor, or, alternatively, listed by subject on a public agency’s website or other electronically retrievable public source.

**MAYOR, CITY OF CAMAS**

<b>MAYOR, CITY OF CAMAS</b>		<b>NAME</b>	<b>DATE</b>
<b>NAME</b>	<b>DATE</b>		

**East County Fire and Rescue  
Commissioners**

<b>NAME</b>	<b>DATE</b>
-------------	-------------

<b>NAME</b>	<b>DATE</b>
-------------	-------------

<b>NAME</b>	<b>DATE</b>
-------------	-------------

<b>NAME</b>	<b>DATE</b>
-------------	-------------

EXHIBIT A

Workers Compensation Relationship Consent

I, \_\_\_\_\_, acknowledge that, when I am performing Fire Chief services for \_\_\_\_\_ pursuant to the Interlocal Agreement between \_\_\_\_\_ and \_\_\_\_\_, for purposes of workers compensation coverage, \_\_\_\_\_ shall be considered my employer when I am working under the control and direction of \_\_\_\_\_ officials.

\_\_\_\_\_

EXHIBIT B

City of Camas / ECFR

Fire Chief Sharing Proposal

Personnel	Hours per Month	Hourly Rate	Total Cost
-----------	-----------------	-------------	------------

**Fire Chief**

Coordination with Deputy Chief	6.5	\$80.05	\$520.33
Attend commission meetings as necessary	4	\$80.05	\$320.20
ECFR Officers Meeting	2	\$80.05	\$160.10
Station 91 on site hours	8	\$80.05	\$640.40
Emergency Response	5	\$80.05	\$400.25
Miscellaneous Duties	8	\$80.05	\$640.40
<b>Labor Subtotal</b>	<b>37.5</b>		<b>\$2,681.68</b>

**Miscellaneous Expenses**

**\$318.32**

**TOTAL**

**\$3,000.00**

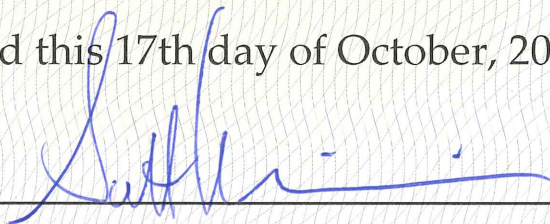
Mayor's  
**VOLUNTEER SPIRIT AWARD**

in the City of Camas, presented to

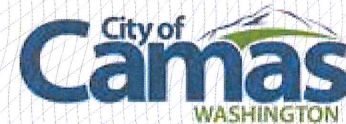
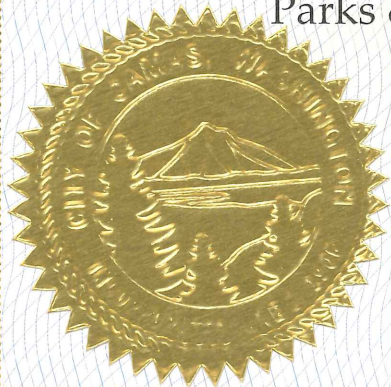
**CAMAS UNITED METHODIST  
CHURCH**

For sponsoring **Movies in the Park** for 10 years in partnership with Camas  
Parks & Recreation and their hands-on involvement at each event.

Dated this 17th day of October, 2016



Scott Higgins, Mayor



~ PROCLAMATION ~

WHEREAS, communities across America have been plagued by the numerous problems associated with illicit drug use and those that traffic in them; and

WHEREAS, there is hope in winning the war on drugs, and that hope lies in education and drug demand reduction, coupled with the hard work and determination of organizations such as the Lewis and Clark Young Marines of the Marine Corps League to foster a healthy, drug-free lifestyle; and

WHEREAS, governments and community leaders know that citizen support is one of the most effective tools in the effort to reduce the use of illicit drugs in our communities; and

WHEREAS, the red ribbon has been chosen as a symbol commemorating the work of Enrique "Kiki" Camarena, a Drug Enforcement Administration Special Agent who was murdered in the line of duty, and represents the belief that one person can make a difference; and

WHEREAS, the Red Ribbon Campaign was established by Congress in 1988 to encourage a drug-free lifestyle and involvement in drug prevention and reduction efforts; and

WHEREAS, October 23-31, 2016 has been designated National Red Ribbon Week, which encourages Americans to wear a red ribbon to show their support for a drug-free environment;

THEREFORE, I, Scott Higgins, Mayor of the City of Camas, do hereby proclaim October 23-31, 2016, as:

***"Red Ribbon Week"***

in the City of Camas and encourage all citizens to join me in this special observance.



In witness whereof, I have set my hand and caused the seal of the City of Camas to be affixed this 17<sup>th</sup> day of October, 2016.

\_\_\_\_\_  
Scott Higgins, Mayor

## ~ PROCLAMATION ~

WHEREAS, the month of October has been recognized as National Arts and Humanities Month by thousands of arts and cultural organizations, communities, and states across the country, as well as by the White House and Congress for over 30 years; and

WHEREAS, the arts and humanities embody much of the accumulated wisdom, intellect, and imagination of humankind; and

WHEREAS, the arts and humanities enhance and enrich the lives of every American; and

WHEREAS, the arts and humanities play a unique role in the lives of our families, our communities and our country; and

WHEREAS, the nonprofit arts industry also strengthens our economy by generating \$135 billion in total economic activity annually, \$22.3 billion in government revenue and by supporting the full-time equivalent of 4.1 million jobs;

THEREFORE, I, Scott Higgins, Mayor of Camas, do hereby proclaim October as

### *“National Arts and Humanities Month”*

in Camas, Washington and call on all citizens to celebrate and promote the arts and culture in our nation and specifically encourage greater participation by taking action for the arts and humanities in our city.



In witness whereof, I have set my hand and caused the seal of the City of Camas to be affixed this 17<sup>th</sup> day of October, 2016.

---

Scott Higgins, Mayor

## ~ PROCLAMATION ~

WHEREAS, the City of Camas is a community which acknowledges that a special vibrancy exists within the entire community when its individual citizens collectively “go the extra mile” in personal effort, volunteerism and service; and

WHEREAS, the City of Camas is a community which encourages its citizens to maximize their personal contribution to the community by giving of themselves wholeheartedly and with total effort, commitment and conviction to their individual ambitions, family, friends and community; and

WHEREAS, the City of Camas is a community which chooses to shine a light on and celebrate individuals and organizations within its community who “go the extra mile” in order to make a difference and lift up fellow members of their community; and

WHEREAS, the City of Camas acknowledges the mission of Extra Mile America to create over 550 Extra Mile cities in America and is proud to support “Extra Mile Day”;

THEREFORE, I, Scott Higgins, Mayor of the City of Camas, do hereby proclaim  
November 1, 2016, as:

### *“Extra Mile Day”*

in the City of Camas, and encourage all citizens to take time on this day to not only “go the extra mile” in his or her own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country or world a better place.



In witness whereof, I have set my hand  
and caused the seal of the City of Camas to  
be affixed this 17<sup>th</sup> day of October, 2016.

---

Scott Higgins, Mayor

ORDINANCE NO. 16-018

AN ORDINANCE of the City of Camas, Washington authorizing a Drinking Water State Revolving Fund Loan with the Washington State Public Works Board to provide funds to construct Water Transmission Mains and approving the Drinking Water State Revolving Fund Loan Agreement

WHEREAS, the City of Camas, Washington (the "City") applied for a Drinking Water State Revolving Fund Loan (the "Loan") through the Washington State Department of Health ("DOH") in the amount of \$3,434,000 to provide funds to complete design and construction of Surface Water Transmission Mains to convey water from the City's Surface Water Treatment Plant (the "Project") to the City's distribution system; and

WHEREAS, on October 10, 2016, the City received authorization of a Loan in the amount of \$3,434,000 for the Project.

THE CITY COUNCIL OF THE CITY OF CAMAS, WASHINGTON HEREBY RESOLVES AS FOLLOWS:

1. Terms of the Loan: The Loan will be in the principal amount of \$3,434,000. The Loan matures in 20 years, and bears interest at the rate of 1.5%. The City Council hereby authorizes the City Administrator or Finance Director to enter into the Loan on behalf of the City to finance the Project.

2. General Authorization and Ratification. The Mayor, City Administrator, Finance Director and other appropriate officers of the City are severally authorized to take such actions and to execute such documents as in their judgment may be necessary or desirable to carry out the transaction contemplated in connection with this ordinance and for the proper application, use and investment of the proceeds of the Loan. All actions taken prior to the effective date of this Ordinance in furtherance of the purposes described in this



ORDINANCE NO. 16-018

Ordinance and not inconsistent with the terms of this Ordinance are ratified and confirmed in all respects.

3. Effective Date of Ordinance. This ordinance shall take force and be in effect five (5) days from and after its publication according to law.

PASSED BY the City Council and APPROVED by the Mayor of the City of Camas, Washington, at an open public meeting thereof, this 17th day of October, 2016.

SIGNED: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED as to form:

\_\_\_\_\_  
City Attorney



## Washington State Public Works Board

1011 Plum Street SE  
Post Office Box 42525  
Olympia, Washington 98504-2525

---

October 11, 2016

James Hodges  
City of Camas  
616 NE 4th Avenue  
Camas, WA 98607

RE: Loan Contract Number: DM16-952-002

Dear Mr. James Hodges:

Enclosed are two originals of the Drinking Water State Revolving Fund Loan Contract Number identified above. The Loan Contract details the terms and conditions that will govern the agreement between us, which includes the project's Scope of Work and an Attorney's Certification as formal attachments.

When you have obtained the appropriate signatures, please return both original contracts and all the attachments to the Public Works Board within 60 calendar days of the date of this letter. Failure to return the contracts within this timeline may result in your loan offer being withdrawn.

Please note that the U.S. Environmental Protection Agency is the funding source for this program and the Catalog of Federal Domestic Assistance (CFDA) number is 66.468. Consequently, the loan funds are federal and subject to both state and federal requirements.

If the loan fee applies, the amount of the loan includes an amount sufficient to cover a one-percent loan administration fee. The fee will be collected at contract execution, and is non-refundable. Please review the terms and conditions of the Loan Contract carefully, as well as the attachments.

A requirement of the DWSRF program is that you must maintain updated project records and yearly renewal of your registration in the System for Award Management at [www.sam.gov](http://www.sam.gov).

Another requirement of the DWSRF program is that all entities are required to verify that the federal government has not suspended or debarred them from receiving federal funds. This includes, but is not limited to, project contractors, subcontractors, engineers, architects, consultants, and equipment vendors. The Exclusion Report can be accessed at [www.sam.gov](http://www.sam.gov). Failure to provide this required certification may result in termination of your loan contract.

After the Loan Contracts have been signed by the Board or its designee, one fully executed original will be returned to you for your files. Instructions for drawing the loan funds will be returned to you with the executed Loan Contract, as well as the necessary forms. The Loan Contract specifies that draws may be made for costs that have been incurred, and which have supporting documentation such as receipts or bills.

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Administrative services provided by the Department of Commerce

(360) 725-3150

Fax (360) 586-8440

[www.pwb.wa.gov](http://www.pwb.wa.gov)

---

We are looking forward to working with you over the course of this project. If you have any questions about this Loan Contract, please contact me.

Sincerely,

Jeff Hinckle  
Federal Programs Unit  
(360) 725-3060  
jeff.hinckle@commerce.wa.gov

**Enclosures:**

ATTACHMENT I: ATTORNEY'S CERTIFICATION

ATTACHMENT II: FEDERAL AND STATE REQUIREMENTS

ATTACHMENT III: DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

ATTACHMENT IV: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

ATTACHMENT V: DWSRF ELIGIBLE PROJECT COSTS

ATTACHMENT VI: LABOR STANDARD PROVISIONS FOR SUBRECIPIENTS THAT ARE GOVERNMENT ENTITIES



**Washington State  
Public Works Board**

1011 Plum Street SE  
Post Office Box 42525  
Olympia, Washington 98504-2525

---

**Capital Agreement between:**

**City of Camas  
and**

**Public Works Board**

**For:**

Project Name: **Camas Surface Water Transmission Main**

Loan Number: **DM16-952-002**

Loan Type: **DWSRF NT**

**Contract Start Date:** \_\_\_\_\_ **Contract Execution Date** \_\_\_\_\_



**Department of Commerce**  
Innovation is in our nature.

Washington State Department of Commerce  
[www.commerce.wa.gov](http://www.commerce.wa.gov)

# DECLARATIONS

## CLIENT INFORMATION

Legal Name: City of Camas  
Loan Number: DM16-952-002  
Award Year: 2016  
State Wide Vendor Number: SWV0016796-00

## PROJECT INFORMATION

Project Title: Camas Surface Water Transmission Main  
Project City: Camas  
Project State: Washington  
Project Zip Code: 98607

## LOAN INFORMATION

Loan Amount: \$3,434,000.00  
Loan Fee (Included in loan amount if applicable) \$34,000.00  
Loan Forgiveness %: 0%  
Loan Term: 20 years  
Interest Rate: 1.50%  
Payment Month: October 1st  
Earliest Date for Construction Reimbursement: 6/1/2012  
Time of Performance: 48 months from Contract execution date to Project Completion date.

## FUNDING INFORMATION

Total Amount of Federal Award (as applicable) [To be determined]  
Federal Award Date [To be determined]  
Federal Award ID # (FAIN) [To be determined]  
Amount of Federal Funds Obligated by this action [To be determined]  
Awarding Official [To be determined]

## SPECIAL TERMS AND CONDITIONS GOVERNING THIS LOAN AGREEMENT

The following sections of this contract are hereby deleted:

Section 2.2 - ADMINISTRATIVE COST ALLOCATION (final sentence): "An approved current federal indirect cost rate may be applied up to the maximum administrative budget allowed".

Section 2.24. - INDIRECT COSTS (entire section).

## LOAN SECURITY CONDITION GOVERNING THIS LOAN AGREEMENT

This loan is a revenue obligation of the Contractor payable solely from the net revenue of the Water system. Payments shall be made from the net revenue of the utility after the payment of the principal and interest on any revenue bonds, notes, warrants or other obligations of the utility having a lien on that net revenue. As used here, "net revenue" means gross revenue minus expenses of maintenance and operations. The Board grants the Contractor the right to issue future bonds and notes that constitute a lien and charge on net revenue superior to the lien and charge of this loan Contract. This option may be used only if the entire project is a domestic water, sanitary sewer, storm sewer, or solid waste utility project.

## DECLARATIONS (continued)

Loan Number:  
Project Title:

**DM16-952-002**  
**Camas Surface Water Transmission Main**

Scope of Work:

**Project to include: 1) Completion of any remaining items associated with the Water Transmission Piping Project and Slow Sand Filtration Facility and related appurtenances as started under DWSRF Loan DM12-952-089, including property and easements acquisition, design, permits, engineering, construction oversight, and management tasks;**

**2) Completion of any remaining consolidation tasks including acquisition of existing Group A system (Lacamas Bible Camp and Camp Currie), including installation of new water services and meters, temporary rehabilitation and operation of the existing wells for either or both locations, well decommissioning, electrical, instrumentation, structures, surface restoration, system development charges, property and easement acquisition, and any other related items;**

**3) Installation of treated and raw water pipelines to serve the slow sand filter plant to include: a) Engineering, design, permitting, and constructing approximately 8,900 feet of 8" diameter raw water transmission main from Boulder Creek Intake to Slow Sand Filtration Plant, and all related appurtenances; b) Engineering, design, permitting, and construction of approximately 8,100 feet of 14" diameter treated water transmission piping from NE 312th and Ireland Road to NE 262nd and Stauffer Road, and related appurtenances, in Clark County. Tasks for both shall include installation of pipe, excavation, saw-cutting, import bedding and backfill, traffic control, pavement and other surface restoration, fencing, easement and acquisition activities, landscaping, connections, instrumentation and other related items.**

**In addition to costs of construction, costs may include (but are not limited to): engineering, cultural and historical resources review, permits, public involvement, and bid documents needed to meet local, state, and federal standards.**

**CONTRACT FACE SHEET**  
**Contract Number: DM16-952-002**  
**Drinking Water State Revolving Fund (DWSRF)**  
**2016**  
**(Municipal)**

<b>1. Contractor</b> City of Camas 616 NE 4th Avenue, Camas, WA 98607		<b>2. Contractor Doing Business As (optional)</b> N/A	
<b>3. Contractor Representative</b> N/A		<b>4. Public Works Board Representative</b> N/A	
<b>5. Contract Amount</b> <b>\$3,434,000.00</b>	<b>6. Funding Source</b> Federal: <input checked="" type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	<b>7. Contract Start Date</b> Contract Execution Date	<b>8. Contract End Date</b> October 1, 2036
<b>9. Federal Funds (as applicable)</b> N/A	<b>Federal Agency</b> EPA	<b>CFDA Number</b> 66.468	
<b>10. Tax ID #</b> N/A	<b>11. SWV #</b> SWV0016796-00	<b>12. UBI #</b>	<b>13. DUNS #</b> 103021895
<b>14. Contract Purpose</b> The purpose of this Contract is to provide funding for a project of a local government that furthers the goals and objectives of the Drinking Water State Revolving Fund Loan Program. The project will be undertaken by the Contractor and will include the activities described in the Declared Scope of Work.			
The Board, defined as the Washington State Public Works Board, and Contractor acknowledge and accept the terms of this Contract and attachments and have executed this Contract on the date below to start as of the date and year last written below. The rights and obligations of both parties to this Contract are governed by this Contract and the following other documents incorporated by reference: Contractor Terms and Conditions including Declarations Page; Attachment I: Attorney's Certification; Attachment II: Federal and State Requirements; Attachment III: Disadvantaged Business Enterprise Requirements; Attachment IV: Certification Regarding Debarment, Suspension, and Other Responsibility Matters; Attachment V: DWSRF Eligible Project Costs; and Attachment VI: Labor Standard Provisions for Subrecipients that are Governmental Entities.			
<b>FOR THE CONTRACTOR</b>  _____ Signature  _____ Print Name  _____ Title  _____ Date		<b>FOR PUBLIC WORKS BOARD</b>  _____ Stan Finkelstein, Public Works Board Chair  _____ Date  <b>APPROVED AS TO FORM ONLY</b>  This 30th Day of November, 2015 _____ Bob Ferguson Attorney General  _____ <i>Signature on file</i> Kathryn Wyatt Assistant Attorney General	





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# CONTRACT TERMS AND CONDITIONS

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## DRINKING WATER STATE REVOLVING FUND NEW TRADITIONAL (MUNICIPAL)

### Part 1. SPECIAL TERMS AND CONDITIONS

#### 1.1. DEFINITIONS

As used throughout this Drinking Water State Revolving Fund Loan Contract, the following terms shall have the meaning set forth below:

- A. AWARD YEAR shall mean the calendar year in which the funds were awarded to the Board for use in making loans under this program.
- B. "Board" shall mean the Washington State Public Works Board created in Revised Code of Washington (RCW) 43.155.030, and who is a Party to the Contract.
- C. "Contract" shall mean this Drinking Water State Revolving Fund Loan.
- D. "Contractor" shall mean the Local Government identified on the Contract Face Sheet performing service(s) under this Contract and who is a Party to the Contract, and shall include all employees and agents of the Contractor.
- E. The "Contract End Date" shall mean the date the contract expires. This date shall occur in the final year of the LOAN TERM unless otherwise amended, as counted from the AWARD YEAR. The actual date of contract execution shall have no effect on the Contract End Date.
- F. "Deferral Period" shall be from the date of contract execution until the date of project completion. The Deferral Period shall not exceed 4 years in length.
- G. "Department of Commerce" and "Commerce" shall mean the Washington State Department of Commerce.
- H. "Department of Health" shall mean the Washington State Department of Health, Office of Drinking Water, who is the recipient of the Drinking Water State Revolving Fund grant and regulates drinking water systems in the State of Washington.
- I. "Iron and steel products" are the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.
- J. PAYMENT MONTH shall mean the day and month of the year in which payments are due.

#### 1.2. AUTHORITY

Acting under the authority of RCW 70.119A.170 and RCW 43.155.040, the Board has awarded the Contractor a Drinking Water State Revolving Fund loan for an approved project. The Contractor will be a sub-recipient of funds provided by the United States Environmental Protection Agency, CFDA Number 66.468, Title: Safe Drinking Water State Revolving Fund, award year of this contract.

#### 1.3. PURPOSE

The Board and the Contractor have entered into this Contract to undertake a local project that furthers the goals and objectives of the Drinking Water State Revolving Fund Loan Program. The project will be undertaken by the Contractor and will include the activities described in the SCOPE OF WORK shown on the Declarations page. The project must be undertaken in accordance with the loan Program Special Terms and Conditions and all applicable federal, state and local laws and ordinances, including but not limited to those specifically enumerated in Attachment II: Federal and State Requirements, which by this reference are incorporated into this Contract as though set forth fully herein.

#### 1.4. ORDER OF PRECEDENCE

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- A. Applicable federal and State of Washington statutes and regulations.

- B. Special Terms and Conditions including attachments.
- C. General Terms and Conditions.

**1.5. AMOUNT OF LOAN**

The Board, using funds appropriated from the Drinking Water Assistance Account, shall loan the Contractor a sum not to exceed the amount shown as LOAN AMOUNT on the attached Declarations Page. This loan amount includes a loan fee, if applicable, which is shown on the Declarations Page as LOAN FEE.

**1.6. LOAN FEE**

If the loan fee applies, it will be assessed at loan execution.

The amount of the loan fee (if applicable) represents one percent (1%) of the loan request and shall not be reduced, regardless of the actual final loan amount at project completion. If the loan fee applies and the total loan amount is increased by amendment, an additional loan fee equal to one percent (1%) of the additional loan amount will be assessed at amendment execution. The amount of any loan fee will be displayed on the Declarations Page as LOAN FEE.

**1.7. TERM OF LOAN**

Unless otherwise amended, the term of the loan shall not exceed the period shown on the Declarations Page as LOAN TERM. The term shall start in the AWARD YEAR.

Except as herein provided, under no circumstances shall the loan repayment period exceed 20 years from the contract execution date.

The loan term may be extended for a disadvantaged community up to 30 years, provided that a recipient completes loan repayment no later than 30 years after project completion and the term of the loan does not exceed the expected design life of the project.

**1.8. RATE AND LOAN FORGIVENESS**

The interest rate shall be the declared INTEREST RATE per annum on the outstanding principal balance, based on a three hundred and sixty (360) day year composed of twelve (12) thirty (30) day months. The amount of loan forgiveness (if applicable) shall be as stated on the attached Declarations Page, and identified therein as LOAN FORGIVENESS %.

If project is completed within 24 months of contract execution and includes the basic interest rate, the interest rate will be decreased to one percent (1.0%) at project completion. The calculation of interest rate will apply to the remaining payments beginning from the date the Project Completion report is certified.

This loan forgiveness shall be applied at project completion and shall apply to the lesser of the loan amount or the actual eligible costs and that declared percent on any accrued interest. The percent of loan forgiveness and interest rate shall not be changed, regardless of the actual cost of the project and the Affordability Index at project completion.

**1.9. DISBURSEMENT OF LOAN PROCEEDS AND REQUIRED DOCUMENTATION**

If funding or appropriation is not available at the time the Contractor submits a request for a loan disbursement, the issuance of a warrant will be delayed or suspended until such time funds become available. Therefore, subject to availability of funds, warrants shall be issued to the Contractor for payment of allowable expenses incurred by the Contractor while undertaking and administering approved project activities in accordance with the declared SCOPE OF WORK.

The loan funds will be disbursed to the Contractor as follows:

Ten percent (10%) of loan proceeds will be held until project completion. The total Drinking Water State Revolving Fund Loan shall not exceed one hundred percent (100%) of the actual eligible project costs.

When requesting reimbursement for costs incurred, the Contractor shall submit a signed and completed Invoice Voucher (Form A19), referencing the declared SCOPE OF WORK project activity performed, and any appropriate documentation such as bills, invoices, and receipts. The purchase of any land necessary and integral to the project must be included in the declared SCOPE OF WORK and be documented with an appraisal or other market valuation and a valid purchase and sale agreement. The Invoice Voucher must be certified by an official of the Contractor with authority to bind the Contractor.

Each A19 Reimbursement Voucher must be accompanied by a Project Status Report, which describes, in narrative form, the progress made on the project since the last invoice was submitted, as well as a report of project status to date. The Department of Commerce (Commerce) will not release payment for any reimbursement request received until the Project Status Report is received. After approving the Voucher and the Project Status Report, Commerce shall promptly release funds to the Contractor.

Construction expenses incurred after the date shown as EARLIEST DATE FOR CONSTRUCTION REIMBURSEMENT on the Declarations Page are eligible for reimbursement. Requests for reimbursements for costs related to construction activities will not be accepted until the Contractor has met the following conditions:

- A. Issued a Notice to Proceed which follows the formal award of a construction contract;
- B. Completed the State Environmental Review Process;
- C. Complied with all provisions of Section 106 of the National Historic Preservation Act of 1966;
- D. Complied with Section 1.19: Prevailing Wage;
- E. Obtained approval from the Department of Health of the project report and related construction documents for all applicable activities described in the declared SCOPE OF WORK; and
- F. Complied with any other loan conditions required by Department of Health or The Board.

An electronic copy (emailed PDF or a FAX) of a signed A19 Reimbursement Voucher and other required documentation is the preferred method for requesting reimbursement. Submit the electronic requests to your Federal Programs Unit (FPU) representative or fax to 360-586-8440. This electronic submittal may be 25 pages or less. If you choose to send your vouchers and backup documentation electronically, please DO NOT mail in the original. You will receive email notification from your FPU representative that the electronic request has been received.

Commerce will pay the Contractor upon acceptance of the work performed and receipt of properly completed invoices. Invoices may be submitted to Commerce not more often than monthly.

Payment shall be considered timely if made by Commerce within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

The Board may, at its sole discretion, withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the Board.

In the event that the Contractor receives reimbursement for costs that are later determined by the Board to be ineligible, these funds shall be repaid to the Drinking Water Assistance Account by payment to the Department of Commerce, or its successor, together with the submission of the Project Completion Amendment.

At the time of project completion, the Contractor shall submit to the Board a Certified Project Completion Request certifying the total actual project costs, and a final voucher for the remaining eligible funds. The Certified Project Completion Request shall include a copy of the Construction Completion Report as submitted to Department of Health.

#### **1.10. TIME OF PERFORMANCE**

The Contractor shall begin the activities identified within the declared SCOPE OF WORK no later than thirty (30) days after Contract execution. No later than eighteen (18) months after Contract execution, the Contractor shall issue a 'Notice to Proceed', which follows the formal award of a construction contract.

The Contractor must reach project completion within the period specified on the Declarations Page as TIME OF PERFORMANCE.

Failure to meet Time of Performance within the time frame described in this section shall constitute default under this Contract, and as a result, this Contract may be terminated. In the event of extenuating circumstances, the Contractor may request, in writing, at least 90 days prior to the expiration of project completion date that the Board extend the deadline for project completion. The Board may extend the time of project completion.

#### **1.11. PROJECT COMPLETION AMENDMENT AND THE CERTIFIED PROJECT COMPLETION REPORT**

The Contractor shall initiate a Project Completion Amendment by submitting a Certified Project Completion Report when activities identified in the declared SCOPE OF WORK are complete and the Contractor agrees that no additional eligible costs will be reimbursed.

In the Project Completion Amendment, the Contractor will provide the following information to the Board:

- A. A certified statement of the actual dollar amounts spent, from all fund sources, in completing the project as described in the declared SCOPE OF WORK.
- B. Certification that all costs associated with the project have been incurred. Costs are incurred when goods and services are received and/or contract work is performed.
- C. A copy of the Department of Health Construction Completion Report as submitted to Department of Health.
- D. Evidence documenting compliance with audit requirements as referenced in Section 1.27.
- E. A final voucher for the remaining eligible funds.

The Project Completion Amendment shall serve as an amendment to this Contract determining the final loan amount and term of the loan.

#### **1.12. REPAYMENT**

An assistance recipient begins annual repayment of the loan no later than one year after contract execution. The first repayment installment is due on the first day of the month shown as PAYMENT MONTH on the Declarations Page. Interest only will be charged for this first payment if a draw is made prior to this date. All subsequent payments shall consist of principal and accrued interest due that month of each year during the remaining term of the loan.

Repayment of the loan under this Contract shall include the declared INTEREST RATE per annum. Interest will begin to accrue from the date each payment is issued to the Contractor. The final payment shall be on or before the completion of the declared LOAN TERM, payable on or before the declared PAYMENT MONTH of an amount sufficient to bring the loan balance to zero.

The Contractor has the right to repay the unpaid balance of the loan in full at any time or make accelerated payments without penalty.

The Contractor will repay the loan in accordance with the preceding conditions through the use of a check, money order, or equivalent means made payable to the Washington State Department of Commerce, or its successor.

#### **1.13. DEFAULT IN REPAYMENT**

Loan repayments shall be made in accordance with Section 1.12 of this Contract. A payment not received within thirty (30) days of the due date shall be declared delinquent. Delinquent payments shall be assessed a monthly penalty beginning on the first (1<sup>st</sup>) day past the due date. The penalty will be one percent (1%) per month or twelve percent (12%) per annum of the delinquent payment amount. These same penalty terms shall apply if the repayment of loan funds determined to be ineligible costs are not repaid within thirty (30) days as provided for in Section 1.9.

The Contractor acknowledges and agrees to the Board's right, upon delinquency in the payment of any annual installment, to notify any other entity, creditors, or potential creditors of the Contractor of such delinquency. Contractor shall be responsible for all legal fees incurred by the Board in any action undertaken to enforce its rights under this section.

#### **1.14. LOAN SECURITY**

Loan Security may be required as a performance condition of this contract. If such performance condition is required it shall be indicated on the attached Declarations Page and identified therein as LOAN SECURITY CONDITION.

The Board grants the Contractor the right to issue future bonds and notes that constitute a lien and charge on the revenue source superior to the lien and charge of this Loan Contract. Nothing in this section shall absolve the Contractor of its obligation to make loan repayments when due, and to adjust rates, fees, or surcharges, if necessary, to meet its obligations under this Contract.

#### **1.15. HISTORICAL AND CULTURAL ARTIFACTS**

The Contractor acknowledges that the project funded by this Contract is subject to Section 106 of the National Historic Preservation Act of 1966.

Contractor agrees that Contractor is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural artifacts and agrees to hold harmless the State of Washington in relation to any claim related to such historical or cultural artifacts discovered, disturbed, or damaged as a result of Contractor's public works project funded under this Contract.



The Contractor agrees that, in no case shall construction activities, ground disturbance, or excavation of any sort, begin until the Contractor has complied with all provisions of Section 106 of the National Historic Preservation Act of 1966, as amended.

In addition, the Contractor shall not conduct or authorize destructive project planning activities before completing compliance with Section 106 of the National Historic Preservation Act of 1966, as amended.

If historical or cultural artifacts are discovered during construction, the Contractor shall immediately stop construction and implement reasonable measures to protect the discovery site from further disturbance, take reasonable steps to ensure confidentiality of the discovery site, restrict access to the site, and notify the concerned tribe's cultural staff or committee, Tribal Historical Preservation Officer (THPO), Cultural Resources Program Manager at Washington State Department of Health, and the State's Historical Preservation Officer (SHPO) at the Washington State Department of Archaeology and Historic Preservation (DAHP). If human remains are uncovered, the Contractor shall report the presence and location of the remains to the coroner and local enforcement immediately, then contact the concerned tribe's cultural staff or committee and DAHP.

The Contractor shall require the above provisions to be contained in all contracts for work or services related to the declared SCOPE OF WORK. In no case shall construction activities begin until the Contractor has complied with all provisions of Section 106 of the National Historic Preservation Act of 1966.

In addition to the requirements set forth in this Contract, the Contractor agrees to comply with Native American Graves Protection and Repatriation Act, Archaeological Resources Protection Act, Revised Code of Washington (RCW) 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and Washington Administrative Code (WAC) 25-48 regarding Archaeological Excavation and Removal Permits.

#### **1.16. FEDERAL AND STATE REQUIREMENTS**

The Contractor assures compliance with all applicable federal, state and local laws, requirements, and ordinances as they pertain to the design, implementation, and administration of the approved project, including but not limited to those listed in Attachments II, III, and IV.

#### **1.17. COMPETITIVE BIDDING REQUIREMENTS**

Pursuant to 40 CFR, Section 33.501(b) and (c), the Contractor also agrees to create and maintain a bidders list for both Disadvantaged Business Enterprises (DBE) and Non-Disadvantaged Business Enterprises (non-DBE). The purpose of a bidders list is to provide the recipient and entities receiving identified loans who conduct competitive bidding with as accurate a database as possible about the universe of DBE and non-DBE prime and subcontractors. The list must include all firms that bid or quote on prime contracts or bid or quote subcontracts on Environmental Protection Agency assisted projects, including both DBE and non-DBE. The bidders list must be kept at least until the grant project period has expired and the recipient is no longer receiving Environmental Protection Agency funding under the grant. For entities receiving identified loans, the bidders list must only be kept until the project period for the identified loan has ended. The following information must be obtained from all prime and subcontractors: entity's name with point of contact; entity's mailing address, telephone number, and e-mail address; the procurement on which the entity bid or quoted, and when; and, entity's status as a DBE or non-DBE.

The Contractor agrees to provide Environmental Protection Agency Form 6100-2 DBE Subcontractor Participation and Environmental Protection Agency Form 6100-3 DBE Subcontractor Performance to all its Disadvantaged Business Enterprise subcontractors.

The Contractor shall require Disadvantaged Business Enterprise provisions are contained in all contracts with any subcontractors for work or services related to the declared SCOPE OF WORK.

The Contractor shall comply with the provisions of RCW 43.155.060 regarding competitive bidding requirements for projects assisted in whole or in part with money from the Drinking Water State Revolving Fund program.

#### **1.18. ELIGIBLE PROJECT COSTS**

The Contractor assures compliance with Attachment V: DWSRF Eligible Project Costs, which identifies eligible costs for projects funded by Drinking Water State Revolving Fund loans.

#### **1.19. PREVAILING WAGE**

These terms supersede the terms in Section 2.33. Prevailing Wage Laws in General Terms and Conditions.

All contractors and subcontractors performing work on a construction project funded through this Contract shall comply with prevailing wage laws by paying the higher of state or federal prevailing wages according to:

State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Contractor shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for Board's review upon request; or,

The Davis Bacon Act, 40 USC 276a-276a-5 and related federal acts provide that all laborers and mechanics employed by contractors or subcontractors in the performance shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor.

The Contractor agrees that the Contractor is legally and financially responsible for compliance with the prevailing wage requirements. Contractor is advised to consult the United States Department of Labor and Washington State Department of Labor and Industries websites to determine the federal and State prevailing wages that must be paid.

The Contractor shall ensure that all contractors, subcontractors, engineers, vendors, and any other entity for work or services listed in the declared SCOPE OF WORK shall insert in full, in any contract, the labor standards provisions listed in Attachment VI: Labor Standard Provisions for Subrecipients That Are Governmental Entities. Contractor shall report to the Board and/or the Department of Health that this requirement has been met as stated in this Contract.

#### **1.20. FEDERAL EXCLUSION**

These Terms add to the terms in Section 2.11. Certification Regarding Debarment, Suspension or Ineligibility and Voluntary Exclusion – Primary and Lower Tier Covered Transactions in General Terms and Conditions. The Contractor also agrees to access the Federal Exclusion List at [www.sam.gov](http://www.sam.gov) and provide Federal Exclusion documentation to the Board and to keep a copy on file with the Contractor's project records.

#### **1.21. REGISTRATION WITH CENTRAL CONTRACTOR REGISTRATION (CCR)**

By signing this Contract, the Contractor accepts the requirements stated in 48 CFR 52.204-7 to register with the Central Contractor Registration (CCR) database at the System for Awards Management (SAM) website. To register in SAM, a valid Data Universal Numbering System (DUNS) Number is required. The Contractor is responsible for the accuracy and completeness of the data within the SAM database and for any liability resulting from the Government's reliance on inaccurate or incomplete data. The Contractor must remain registered in the SAM database after the initial registration. The Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in SAM to ensure it is current, accurate and complete. The Contractor shall provide evidence documenting registration and renewal of SAM registration to the Board.

In the event of the Contractor's noncompliance or refusal to comply with the requirement stated above, the Board reserves the right to suspend payment until the Contractor cures this noncompliance.

#### **1.22. RECORDKEEPING AND ACCESS TO RECORDS**

These terms supersede the terms in Section 2.38. Records Maintenance in General Terms and Conditions.

The Board, the Board's agents, and duly authorized officials of the state and federal governments shall have full access and the right to examine, copy, excerpt, or transcribe any pertinent documents, papers, records, and books of the Contractor and of persons, firms, or organizations with which the Contractor may contract, involving transactions related to this project and this Contract.

The Contractor agrees to retain these records for a period of six (6) years from the date that the debt is retired. This includes but is not limited to financial reports. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

#### **1.23. REPORTS**

The Contractor, at such times and on such forms as the Board may require, shall furnish the Board with such periodic reports as it may request pertaining to the activities undertaken pursuant to this Contract including, but not limited to:

- A. Prevailing Wage decisions and/or changes
- B. Disadvantaged Business Enterprises utilization
- C. Project Status Reports with each Invoice Voucher
- D. Certified Project Completion Report at project completion (as described in Section 1.11)
- E. Other reports as the Board may require

In the event of the Contractor's noncompliance or refusal to comply with the requirement stated above, the Board reserves the right to suspend payment until the Contractor cures this noncompliance.

#### **1.24. AMENDMENTS, MODIFICATIONS, ASSIGNMENTS, AND WAIVERS**

Amendments, modifications, assignments, and waivers to any of the terms of this contract supersede those terms as found in the original contract.

The Contractor may request an amendment of this Contract for the purpose of modifying the declared SCOPE OF WORK or for extending the time of performance as provided for in Section 1.10. Any revision to the SCOPE OF WORK or location of the project must be approved by the Department of Health. No modification or amendment resulting in an extension of time shall take effect until a request has been received and approved by the Board in accordance with Section 1.10.

***During the term of this loan, any change in ownership of the water system(s) improved with funds received by the Contractor under this Contract must be approved in writing by the Board. As a condition of approval, the Board reserves the right to demand payment in full of the outstanding principal balance of the loan.***

No conditions or provisions of this Contract may be waived unless approved by the Board in writing. No waiver of any default or breach by any party shall be implied from any failure to take action upon such default or breach if the default of breach persists or repeats.

#### **1.25. TERMINATION FOR CAUSE**

These terms supersede the terms in Section 2.46. Termination for Cause/Suspension in General Terms and Conditions.

If the Board concludes that the Contractor has failed to comply with the terms and conditions of this Contract, or has failed to use the loan proceeds only for those activities identified in the declared SCOPE OF WORK, or has otherwise materially breached one or more of the covenants in this Contract, the Board may at any time, at its discretion, upon notice to the Contractor, terminate the Contract and/or its attached agreements in whole or in part and declare the entire remaining balance of the loan, together with any interest accrued, immediately due and payable in full. Such Notice of Termination for Cause shall be in writing, shall state the reason(s) for such termination, and shall specify the effective date of the termination. The effective date of the termination will be determined by the Board. Such notice shall inform the Contractor of the breach of the relevant covenant and shall allow the Contractor at least thirty (30) business days to cure such breach, if curable. The notice shall instruct the Contractor that, if the breach is not cured or cannot be cured within thirty (30) business days, the outstanding balance of the loan shall be due and payable. If this Contract is so terminated, the Board shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination. Nothing in this section shall affect the Contractor's obligations to immediately repay the unpaid balance of the loan as prescribed in the Washington Administrative Code (WAC) 246-296-150.

#### **1.26. TERMINATION FOR CONVENIENCE**

These terms supersede the terms in Section 2.47. Termination for Convenience in General Terms and Conditions.

The Board may terminate this Contract in the event that federal or state funds are no longer available to the Board, or are not appropriated for the purpose of meeting the Board's obligations under this Contract. The Board shall notify the Contractor in writing of its determination to terminate and the reason for such termination. The effective date of the termination will be determined by the Board. If this Contract is so terminated, the Board shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination. Nothing in this section shall affect Contractor's obligations to repay the unpaid balance of the loan.

#### **1.27. AUDIT**

These terms supersede the terms in Section 2.10. Audit in General Terms and Conditions.

The Board reserves the right to require an audit of this project. The Contractor is responsible for correcting any audit findings. The Contractor agrees to refund to the Board all disallowed costs resulting from the audit. Audit costs are allowable expenses within this Contract.

Municipal and Not-For-Profit entities:

Audits of the Contractor's project activities may be conducted by the State Auditor Office (SAO). Audit costs are eligible project costs. The Contractor shall maintain its records and accounts so as to facilitate the audit

requirements of the Board or its successor. The Contractor is responsible for any audit findings incurred by its own organization. The Board reserves the right to recover from the Contractor all disallowed costs resulting from the audit.

For audits of fiscal years beginning after December 26, 2014, Contractors expending \$750,000 or more in any fiscal year in federal funds from all sources, direct and indirect, are required to have an audit conducted in accordance with 2 CFR §200.501 – Audit Requirements."

For audits of fiscal years beginning prior to December 26, 2014, Contractors expending \$500,000 or more in any fiscal year in federal funds from all sources, direct and indirect, are required to have an audit conducted in accordance with existing Federal audit requirements.

For-Profit entities:

Audits must include a report on the internal control related to the federal program, which should describe the scope of testing of the internal control and the results of the tests.

The audit also must include a report on compliance, which includes an opinion (or disclaimer of opinion) on whether the auditee complied with laws, regulations and the provisions of the award agreement that could have a direct and material effect on the federal program.

The Contractor must send a copy of any required audit Reporting Package as described in existing Federal audit requirements for audits of fiscal years beginning prior to December 26, 2014, or 2 CFR §200.512 – Report Submission, for audits of fiscal years beginning after December 26, 2014, no later than nine (9) months after the end of the Contractor's fiscal year(s) to:

Department of Commerce  
ATTN: Public Works Board  
P.O. Box 42525  
1011 Plum Street SE  
Olympia WA 98504-2525

In addition to sending a copy of the audit, when applicable, the Contractor must include:

- Corrective action plan for audit findings within three (3) months of the audit being received by the Board.
- Copy of the Management Letter.

**1.28. PROJECT SIGNS**

If the Contractor displays, during the period covered by this Contract, any signs or markers identifying those entities participating financially in the approved project, the sign or marker must identify the Washington State Public Works Board Drinking Water State Revolving Fund and the Washington State Department of Health as participants in the project.

**1.29. DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS**

As mandated by the Environmental Protection Agency, the Contractor agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises in procurement under this Contract. The Contractor is required to follow the requirements identified in Attachment III: Disadvantaged Business Enterprise Requirements.

By signing this Contract, the Contractor accepts the applicable MBE/WBE fair share objectives/goals negotiated with Environmental Protection Agency by the Washington State Office of Minority and Women's Business Enterprises. The Contractor attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as Washington State Office of Minority and Women's Business Enterprises. The goals for the utilization of disadvantaged businesses are stated in Attachment III: Disadvantaged Business Enterprise Requirements.

The Contractor is required to furnish the Board and the Department of Health with such periodic reports as the Department may request pertaining to the utilization of disadvantaged businesses.

**1.30. NONDISCRIMINATION PROVISION**

During the performance of this contract, the Contractor shall comply with all federal and state nondiscrimination laws, including, but not limited to Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 USC 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the Contractor's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled, or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the Board. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance.

The Contractor must also include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services listed in the declared SCOPE OF WORK:

"The Contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract."

**1.31. PROHIBITION STATEMENT**

Pursuant to Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the Contractor`s contractors, subcontractors, engineers, vendors, and any other entity shall comply with and include the following terms and conditions in all contracts for work or services listed in the declared SCOPE OF WORK:

"All forms of trafficking in persons, illegal sex trade, or forced labor practices are prohibited in the performance of this award or subawards under the award, or in any manner during the period of time that the award is in effect. This prohibition applies to you as the recipient, your employees, subrecipients under this award, and subrecipients' employees."

If any term of this section is violated, this contract may be terminated.

**1.32. FALSE, INCORRECT, OR INCOMPLETE INFORMATION OR CLAIM**

The Contractor warrants that the Contractor neither has submitted nor shall submit any information that is materially false, incorrect, or incomplete to the Board.

The Contractor is advised that providing false, fictitious, or misleading information with respect to the receipt and disbursements of Environmental Protection Agency funds is basis for criminal, civil, or administrative fines and/or penalties.

**1.33. LITIGATION**

The Contractor warrants that there is no threatened or pending litigation, investigation, or legal action before any court, arbitrator, or administrative agency that, if adversely determined, would have a materially adverse effect on the Contractor's ability to repay the loan.

**1.34. ESTABLISHMENT OF ADEQUATE RATES AND RESERVES**

The Contractor agrees to provide a resolution adopting rate increases, capital assessments, or both, for the services of the system that shall be sufficient to provide funds which, along with other revenues of the system, will pay all operating expenses and debt repayments during the term of the loan. In addition, the Contractor shall create, fund, and maintain reserves at least as required by the Water System Plan or Small Water System Management Plan. The Board reserves the right, at anytime, to request proof of compliance of these requirements from the Contractor.

**1.35. SPECIAL CONDITIONS**

If SPECIAL CONDITIONS are listed on the Contract Declarations Page then these conditions are herein incorporated as part of the terms and requirements of this contract.

**1.36. INVESTMENT GRADE AUDIT**

For projects involving repair, replacement, or improvement of a wastewater treatment plant, or other public works facility for which energy efficiency is obtainable, Contractor must undertake an investment grade audit per ESHB 1497.

Costs incurred as part of the investment grade audit are eligible project costs.

**1.37. BUY AMERICAN**

None of the funds made available to the Contractor shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in

the project are produced in the United States. This requirement applies to the entire project receiving a loan agreement executed after January 17, 2014. Buy American does not apply to a project if the Department of Health approves the engineering plans and specifications for the project, in that agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to January 17, 2014.

Waiver of the Buy American requirement may be considered if: 1) compliance would be inconsistent with the public interest; or 2) the particular iron and steel products are not produced in the United States in sufficient and reasonably available quantities and/or the particular iron and steel products are not of a satisfactory quality; or 3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent. For consideration, a request for a waiver must be submitted to the Environmental Protection Agency (EPA). Contractors shall submit the waiver request to Commerce, which will then submit the request to EPA. EPA will post the waiver request and any other information available to EPA concerning the waiver request, on EPA's public Internet website and allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The full text of the Buy American requirements appear at H.R. 3547, Consolidated Appropriations Act, 2014.



## Part 2. GENERAL TERMS AND CONDITIONS

### 2.1. DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Public Works Board Chair and/or the designee authorized in writing to act on the Chair's behalf.
- B. "Board" shall mean the Washington State Public Works Board created in Revised Code of Washington (RCW) 43.155.030, and which is a Party to the Contract
- C. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- D. "Modified Total Direct Costs (MTDC)" shall mean all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. "State" shall mean the state of Washington.
- G. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

### 2.2. ADMINISTRATIVE COST ALLOCATION

Administrative costs that may be allowed are set forth in the Specific Terms and Conditions. Administrative services shared by other programs shall be assigned to this Contract based on an allocation plan that reflects allowable administrative costs that support services provided under each Contract administered by the Contractor. An approved current federal indirect cost rate may be applied up to the maximum administrative budget allowed.

### 2.3. ALLOWABLE COSTS

Costs allowable under this Contract are actual expenditures according to an approved budget up to the maximum amount stated on the Contract Award or Amendment Face Sheet.

### 2.4. ALL WRITINGS CONTAINED HEREIN

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

### 2.5. AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

### 2.6. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, ALSO REFERRED TO AS THE "ADA" 28 CFR PART 35

The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

### 2.7. APPROVAL

This contract shall be subject to the written approval of the Board's Authorized Representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

## 2.8. **ASSIGNMENT**

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of the Board.

## 2.9. **ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorneys fees and costs.

## 2.10. **AUDIT**

### **A. General Requirements**

Contractors are to procure audit services based on the following guidelines.

The Contractor shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that Subcontractors also maintain auditable records.

The Contractor is responsible for any audit exceptions incurred by its own organization or that of its Subcontractors.

The Board reserves the right to recover from the Contractor all disallowed costs resulting from the audit.

As applicable, Contractors required to have an audit must ensure the audits are performed in accordance with Generally Accepted Auditing Standards (GAAS); Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General.

Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Contractor must respond to the Board requests for information or corrective action concerning audit issues within thirty (30) days of the date of request.

### **B. Federal Funds Requirements - OMB Circular A-133 Audits of States, Local Governments and Non-Profit Organizations**

Grantees expending \$750,000 or more in a fiscal year (that begins after December 26, 2014) in federal funds from all sources, direct and indirect, are required to have an audit conducted in accordance with 2 CFR Part 200. For fiscal years beginning prior to December 26, 2014, Grantees are required to have an audit conducted in accordance with Federal audit requirements. When state funds are also to be paid under this Agreement a Schedule of State Financial Assistance as well as the required schedule of Federal Expenditure must be included. Both schedules include:

- Grantor agency name
- Federal agency
- Federal program name
- Other identifying contract numbers
- Catalog of Federal Domestic Assistance (CFDA) number (if applicable)
- Grantor contract number
- Total award amount including amendments (total grant award)
- Current year expenditures

If the Contractor is a state or local government entity, the Office of the State Auditor shall conduct the audit. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the Contractor in accordance with OMB Circular A-110 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations."

The Contractor shall include the above audit requirements in any subcontracts.

In any case, the Contractor's financial records must be available for review by the Board.

### **C. Documentation Requirements**

The Contractor must send a copy of any required audit Reporting Package as described in OMB Circular A-133, Part C, Section 320(c) no later than nine (9) months after the end of the Contractor's fiscal year(s) by sending a scanned copy to [auditreview@commerce.wa.gov](mailto:auditreview@commerce.wa.gov) or by sending a hard copy to:

- Department of Commerce
- ATTN: Audit Review and Resolution Office
- 1011 Plum Street
- PO Box 42525



In addition to sending a copy of the audit, when applicable, the Contractor must include:

- Corrective action plan for audit findings within three (3) months of the audit being received by the Board.
- Copy of the Management Letter.

**2.11. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION—PRIMARY AND LOWER TIER COVERED TRANSACTIONS**

- A.** Contractor, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:
1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
  2. Have not within a three-year period preceding this contract, 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 or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  3. 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 section; and,
  4. Have not within a three-year period preceding the signing of this contract had one or more public transactions (federal, state, or local) terminated for cause of default.
- B.** Where the Contractor is unable to certify to any of the statements in this contract, the Contractor shall attach an explanation to this contract.
- C.** The Contractor agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Board.
- D.** The Contractor further agrees by signing this contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

**LOWER TIER COVERED TRANSACTIONS**

- a) The lower tier contractor certifies, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
  - b) Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
- E.** The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Board for assistance in obtaining a copy of these regulations.

**2.12. CODE REQUIREMENTS**

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990, 28 C.F.R. Part 35 will be required, as specified by the local building Department.

**2.13. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

- A.** "Confidential Information" as used in this section includes:
1. All material provided to the Contractor by the Board that is designated as "confidential" by the Board;
  2. All material produced by the Contractor that is designated as "confidential" by the Board; and

3. All personal information in the possession of the Contractor that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

- B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of the Board or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide the Board with its policies and procedures on confidentiality. The Board may require changes to such policies and procedures as they apply to this Contract whenever the Board reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by the Board. Upon request, the Contractor shall immediately return to the Board any Confidential Information that the Board reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.
- C. Unauthorized Use or Disclosure. The Contractor shall notify the Board within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

#### **2.14. CONFLICT OF INTEREST**

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

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Contractor and their subcontractor(s) must identify and state of Washington employees for former state employees employed or on the firm's governing board during the past 24 months. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the Contractor may be disqualified from further consideration for the award of a contract.

In the event this contract is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of COMMERCE provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which COMMERCE makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

#### **2.15. CONFORMANCE**

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

#### **2.16. COPYRIGHT PROVISIONS**

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the Board. The Board shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to the Board effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to the Board a nonexclusive, royalty-free, irrevocable license (with rights

to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the Board.

The Contractor shall exert all reasonable effort to advise the Board, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide the Board with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. The Board shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

## **2.17. DISALLOWED COSTS**

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

## **2.18. DISPUTES**

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of the Board, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Contractor's name, address, and Contract number; and,
- be mailed to the Director and the other party's (respondent's) Contract Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

## **2.19. DUPLICATE PAYMENT**

The Contractor certifies that work to be performed under this contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

## **2.20. ETHICS/CONFLICTS OF INTEREST**

In performing under this Contract, the Contractor shall assure compliance with the Ethics in Public Service Act (Chapter 42.52 RCW) and any other applicable state or federal law related to ethics or conflicts of interest.

## **2.21. GOVERNING LAW AND VENUE**

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

## **2.22. INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the state of Washington, the Board, all other agencies of the state and all officers, agents and employees of the state, from and against all claims or damages for injuries to persons or property or death arising out of or incident to the Contractor's performance or failure to perform the Contract. The Contractor's obligation to indemnify, defend, and hold harmless includes any claim by the Contractor's agents, employees, representatives, or any Subcontractor or its agents, employees, or representatives.

The Contractor's obligation to indemnify, defend, and hold harmless shall not be eliminated by any actual or alleged concurrent negligence of the state or its agents, agencies, employees and officers.

Subcontracts shall include a comprehensive indemnification clause holding harmless the Contractor, the Board, the state of Washington, its officers, employees and authorized agents.

The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

## **2.23. INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this Contract are not employees or agents of the State of Washington or the Board. The Contractor will not hold itself out as or claim to be an officer or employee of the Board or of the State of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

## **2.24. INDIRECT COSTS**

If statutorily allowed and if the Contractor chooses to charge Indirect under this grant, the Contractor shall provide their indirect cost rate that has been negotiated between their entity and the Federal Government. If no such rate exists a de minimis indirect cost rate of 10% of modified total direct costs (MTDC) will be used.

## **2.25. INDUSTRIAL INSURANCE COVERAGE**

The Contractor shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, The Board may collect from the Contractor the full amount payable to the Industrial Insurance Accident Fund. The Board may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the Board under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

## **2.26. LAWS**

The Contractor shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to:

### **United States Laws, Regulations and Circulars (Federal)**

#### **A. Audits**

Office of Management and Budget (OMB) Revised Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations."

#### **B. Environmental Protection and Review**

Coastal Zone Management Act of 1972, 16 USC §§1451-1464 HUD's implementing regulations at 24 CFR parts 50 or 58, as appropriate.

Lead Based Paint Poisoning Prevention Act, 42 USC 4821-4846 also 24 CFR 982.401(j).

National Environmental Policy Act of 1969, 42 USC 4321 et seq. and the Implementing Regulations of 24 CFR 58 (HUD) and 40 CFR 1500-1508 (Council on Environmental Quality) Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 USC 4851-4856.

#### **C. Flood Plains**

Flood Disaster Protection Act of 1973, 42 USC 4001-4128.

#### **D. Labor and Safety Standards**

All Rental Units Assisted with Federal Funds Must Meet the Section 8 Housing Quality Standards (HQS) and Local Housing Code Requirements for the duration of the Affordability Period.

Convict Labor, 18 USC 751, 752, 4081, 4082.

Davis Bacon Act, 40 USC 276a-276a-5.

Drug-Free Workplace Act of 1988, 41 USC 701 et seq.

Federal Fair Labor Standards Act, 29 USC 201 et seq.

Work Hours and Safety Act of 1962, 40 USC 327-330 and Department of Labor Regulations, 29 CFR Part 5.

Title IV of the Lead Based Paint Poisoning Prevention Act, 42 USC 4831, 24 CFR Part 35.

E. Laws against Discrimination

Age Discrimination Act of 1975, Public Law 94-135, 42 USC 6101-07, 45 CFR Part 90 Nondiscrimination in Federally Assisted Programs.

Americans with Disabilities Act of 1990, Public Law 101-336.

Equal Employment Opportunity, Executive Order 11246, as amended by Executive Order 11375 and supplemented in U.S. Department of Labor Regulations, 41 CFR Chapter 60.

Executive Order 11246, as amended by EO 11375, 11478, 12086 and 12102.

Fair Housing Act (42 USC 3601-19) and implementing regulations at 24 CFR part 100. Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8.

Fair Housing, Title VIII of the Civil Rights Act of 1968, Public Law 90-284, 42 USC 3601-19.

Handicapped Employees of Government Contractors, Rehabilitation Act of 1973, Section 503, 29 USC 793.

Handicapped Recipients of Federal Financial Assistance, Rehabilitation Act of 1973, Section 504, 29 USC 794.

Minority Business Enterprises, Executive Order 11625, 15 USC 631.

Minority Business Enterprise Development, Executive Order 12432, 48 FR 32551.

Nondiscrimination and Equal Opportunity, 24 CFR 5.105(a).

Nondiscrimination in Benefits, Title VI of the Civil Rights Act of 1964, Public Law 88-352, 42 USC 2002d et seq, 24 CFR Part 1.

Nondiscrimination in Employment, Title VII of the Civil Rights Act of 1964, Public Law 88-352.

Nondiscrimination in Federally Assisted Programs.

Nondiscrimination in Federally Assisted Construction Contracts, Executive Order 11246, 42 USC 2000e, as amended by Executive Order 11375, 41 CFR Chapter 60.

Section 3, Housing and Urban Development Act of 1968, 12 USC 1701u (See 24 CFR 570.607(b)).

F. Office of Management and Budget Circulars

Cost Principles for State, Local and Indian Tribal Governments, OMB Circular A-87, 2 CFR, Part 225.

Cost Principles for Nonprofit Organizations, OMB Circular A-122, (if the Contractor is a nonprofit organization).

Grants and Cooperative Agreements with State and Local Governments, OMB Circular A-102, (if the Contractor is a local government or federally recognized Indian tribal government).

Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations, OMB Circular A-110.

G. Other

Anti-Kickback Act, 18 USC 874; 40 USC 276b, 276c; 41 USC 51-54.

H.R. 3547, Consolidated Appropriations Act, 2014.

Governmental Guidance for New Restrictions on Lobbying; Interim Final Guidance, Federal Register 1, Vol. 54, No. 243\Wednesday, December 20, 1989.

Hatch Political Activity Act, 5 USC 1501-8.

Lobbying and Disclosure, 42 USC 3537a and 3545 and 31 USC 1352 (Byrd Anti-Lobbying Amendment). 31 USC 1352 provides that Contractors who apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or other award covered by 31

USC 1352. Each tier must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

Non-Supplanting Federal Funds.

Section 8 Housing Assistance Payments Program.

H. Privacy

Privacy Act of 1974, 5 USC 522a.

I. Relocation

Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 and implementing regulations at 49 CFR part 24.

Section 104(d) of the Housing and Community Development Act of 1974 and the implementing regulations at 24 CFR part 570.

**Washington State Laws and Regulations**

- A. Affirmative Action, RCW 41.06.020 .
- B. Boards of Directors or Officers of Non-Profit Corporations – Liability - Limitations, RCW 4.24.264.
- C. Disclosure-Campaign Finances-Lobbying, Chapter 42.17 RCW.
- D. Discrimination-Human Rights Commission, Chapter 49.60 RCW.
- E. Ethics in Public Service, Chapter 42.52 RCW.
- F. Affordable Housing Program, Chapter 43.185 RCW
- G. Interlocal Cooperation Act, Chapter 39.34 RCW.
- H. Noise Control, Chapter 70.107 RCW.
- I. Office of Minority and Women’s Business Enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC.
- J. Open Public Meetings act, Chapter 42.30 RCW.
- K. Prevailing Wages on Public Works, Chapter 39.12 RCW.
- L. Public Records Act, Chapter 42.56 RCW.
- M. Relocation Assistance - Real Property Acquisition Policy, Chapter 8.26 RCW.
- N. Shoreline Management Act of 1971, Chapter 90.58 RCW.
- O. State Budgeting, Accounting, and Reporting System, Chapter 43.88 RCW.
- P. State Building Code, Chapter 19.27 RCW and Energy-Related Building Standards, Chapter 19.27A RCW, and Provisions in Buildings for Aged and Handicapped Persons, Chapter 70.92 RCW.
- Q. State Coastal Zone Management Program Section 309 Assessment and Strategy (Publication 01-06-003), Shorelands and Environmental Assistance Program, Washington State Department of Ecology.
- R. State Environmental Policy, Chapter 43.21C RCW.
- S. State Executive Order 05-05, Archeological and Cultural Resources.

**2.27. LICENSING, ACCREDITATION AND REGISTRATION**

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

**2.28. LIMITATION OF AUTHORITY**

Only the Authorized Representative or Authorized Representative’s designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract.

**2.29. LOCAL PUBLIC TRANSPORTATION COORDINATION**

Where applicable, Contractor shall participate in local public transportation forums and implement strategies designed to ensure access to services.

**2.30. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Contract, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Contractor’s non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this contract may be rescinded, canceled or terminated

in whole or in part, and the Contractor may be declared ineligible for further contracts with the Board. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

### **2.31. NOTIFICATION OF TENANT RIGHTS/RESPONSIBILITIES**

The Contractor shall provide all tenants, if any, with information outlining tenant rights and responsibilities under the Washington State Landlord Tenant laws, Title 59, Revised Code of Washington.

The Contractor shall also provide all occupants of property acquired with U.S. Department of Housing and Urban Development (HUD) funds notice regarding their eligibility for relocation assistance. Such notices will be provided as required by the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended and referenced in 49 CFR part 24 and Section 104(d) of the Housing and Community Development Act of 1974, as amended and referenced in 24 CFR 570 and noted in HUD's Handbook No. 1378. Notifications will include but not be limited to:

- General Information Notice
- Notice of Displacement/Non-Displacement

### **2.32. POLITICAL ACTIVITIES**

Political activity of Contractor employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17 RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

### **2.33. PREVAILING WAGE LAWS**

All contractors and subcontractors performing work on a construction project funded through this agreement shall comply with prevailing wage laws by paying the higher of state or federal prevailing wages according to:

State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Contractor shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for the Board's review upon request; or

The Davis Bacon Act, 40 USC. 276a-276a-5 and related federal acts provide that all laborers and mechanics employed by contractors or subcontractors in the performance shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor.

### **2.34. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS**

A Contractor which is a local government or Indian Tribal government must establish procurement policies and procedures in accordance with OMB Circulars A-102, Uniform Administrative Requirements for Grants in Aid for State and Local Governments, for all purchases funded by this Contract.

A Contractor which is a nonprofit organization shall establish procurement policies in accordance with OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Nonprofit Agencies, for all purchases funded by this Contract.

The Contractor's procurement system should include at least the following:

1. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.
2. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
3. Minimum procedural requirements, as follows:
  - a. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
  - b. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
  - c. Positive efforts shall be made to use small and minority-owned businesses.

- d. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Contractor, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
  - e. Contracts shall be made only with reasonable subcontractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
  - f. Some form of price or cost analysis should be performed in connection with every procurement action.
  - g. Procurement records and files for purchases shall include all of the following:
    - 1) Contractor selection or rejection.
    - 2) The basis for the cost or price.
    - 3) Justification for lack of competitive bids if offers are not obtained.
  - h. A system for contract administration to ensure Contractor conformance with terms, conditions and specifications of this Contract, and to ensure adequate and timely follow-up of all purchases.
4. Contractor and Subcontractor must receive prior approval from the Board for using funds from this Contract to enter into a sole source contract or a contract where only one bid or proposal is received when value of this contract is expected to exceed \$5,000.
- Prior approval requests shall include a copy of proposed contracts and any related procurement documents and justification for non-competitive procurement, if applicable.

**2.35. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION**

The funds provided under this Contract shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Contract provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

**2.36. PUBLICITY**

The Contractor agrees not to publish or use any advertising or publicity materials in which the state of Washington or the Board's name is mentioned, or language used from which the connection with the state of Washington's or the Board's name may reasonably be inferred or implied, without the prior written consent of the Board .

**2.37. RECAPTURE**

In the event that the Contractor fails to perform this contract in accordance with state laws, federal laws, and/or the provisions of this contract, The Board reserves the right to recapture funds in an amount to compensate the Board for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by the Board. In the alternative, The Board may recapture such funds from payments due under this contract.

**2.38. RECORDS MAINTENANCE**

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Contractor shall retain such records for a period of six years following the date of final payment.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved.

**2.39. REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the Contractor shall complete registration with the Washington State Department of Revenue.

**2.40. RIGHT OF INSPECTION**

At no additional cost all records relating to the Contractor's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by the Board, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Contractor shall provide access to its facilities for this purpose.



#### **2.41. SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, The Board may terminate the Contract under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

#### **2.42. SEVERABILITY**

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

#### **2.43. SUBCONTRACTING**

The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of the Board.

If the Board approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, the Board in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to the Board if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to the Board for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that the Board and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

#### **2.44. SURVIVAL**

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

#### **2.45. TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the Contractor's income or gross receipts, any other taxes, insurance or expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

#### **2.46. TERMINATION FOR CAUSE/SUSPENSION**

In event the Board determines that the Contractor failed to comply with any term or condition of this Contract, the Board may terminate the Contract in whole or in part upon written notice to the Contractor. Such termination shall be deemed "for cause." Termination shall take effect on the date specified in the notice.

In the alternative, the Board upon written notice may allow the Contractor a specific period of time in which to correct the non-compliance. During the corrective-action time period, the Board may suspend further payment to the Contractor in whole or in part, or may restrict the Contractor's right to perform duties under this Contract. Failure by the Contractor to take timely corrective action shall allow the Board to terminate the Contract upon written notice to the Contractor.

"Termination for Cause" shall be deemed a "Termination for Convenience" when the Board determines that the Contractor did not fail to comply with the terms of the Contract or when the Board determines the failure was not caused by the Contractor's actions or negligence.

If the Contract is terminated for cause, the Contractor shall be liable for damages as authorized by law, including, but not limited to, any cost difference between the original contract and the replacement contract, as well as all costs associated with entering into the replacement contract (i.e., competitive bidding, mailing, advertising, and staff time).

**2.47. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Contract, the Board may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, the Board shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

**2.48. TERMINATION PROCEDURES**

After receipt of a notice of termination, except as otherwise directed by the Board, the Contractor shall:

- A. Stop work under the Contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities related to the Contract;
- C. Assign to the Board all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Board has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts. Any attempt by the Contractor to settle such claims must have the prior written approval of the Board; and
- D. Preserve and transfer any materials, contract deliverables and/or the Board property in the Contractor's possession as directed by the Board.

Upon termination of the Contract, the Board shall pay the Contractor for any service provided by the Contractor under the Contract prior to the date of termination. The Board may withhold any amount due as the Board reasonably determines is necessary to protect the Board against potential loss or liability resulting from the termination. The Board shall pay any withheld amount to the Contractor if the Board later determines that loss or liability will not occur.

The rights and remedies of the Board under this section are in addition to any other rights and remedies provided under this Contract or otherwise provided under law.

**2.49. WAIVER**

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

**2.50. WORK HOURS AND SAFETY STANDARDS**

The Contract Work Hours and Safety Standards Act (40 USC 327-333)-Where applicable, all contracts awarded by recipients in excess of \$100,000 for construction and other purposes that involve the employment of mechanics or laborers must include a provision for compliance with Section 102 and 107 of the Contract Work Hours Safety Standards Act (40 USC 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each subcontractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic is required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

# ATTACHMENT I: ATTORNEY'S CERTIFICATION

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## DRINKING WATER STATE REVOLVING FUND (MUNICIPAL)

**City of Camas  
DM16-952-002**

I, \_\_\_\_\_, hereby certify:

I am an attorney at law admitted to practice in the State of Washington and the duly appointed attorney of the Contractor identified on the Declarations Page of the Contract identified above; and

I have also examined any and all documents and records, which are pertinent to the Contract, including the application requesting this financial assistance.

Based on the foregoing, it is my opinion that:

1. The Contractor is a public body, properly constituted and operating under the laws of the State of Washington, empowered to receive and expend federal, state and local funds, to contract with the State of Washington, and to receive and expend the funds involved to accomplish the objectives set forth in their application.
2. The Contractor is empowered to accept the Drinking Water State Revolving Fund financial assistance and to provide for repayment of the loan as set forth in the loan agreement.
3. There is currently no litigation in existence seeking to enjoin the commencement or completion of the above-described public facilities project or to enjoin the Contractor from repaying the Drinking Water State Revolving Fund loan extended by the Public Works Board with respect to such project. The Contractor is not a party to litigation, which will materially affect its ability to repay such loan on the terms contained in the loan agreement.
4. Assumption of this obligation would not exceed statutory and administrative rule debt limitations applicable to the Contractor.

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address



# ATTACHMENT II: FEDERAL AND STATE REQUIREMENTS

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## 1) Environmental Authorities

- a) Archeological and Historic Preservation Act of 1974, Public Law 86-523 as amended
- b) Clean Air Act, Public Law 84-159 as amended
- c) Coastal Zone Management Act, Public Law 92-583 as amended
- d) Endangered Species Act, Public Law 93-205 as amended
- e) Environmental Justice, Executive Order 12898
- f) Floodplain Management, Executive Order 11988 as amended by Executive Order 12148
- g) Protection of Wetlands, Executive Order 11990
- h) Farmland Protection Policy Act, Public Law 97-98
- i) Fish and Wildlife Coordination Act, Public Law 85-624 as amended
- j) National Historic Preservation Act of 1966, Public Law 89-665 as amended
- k) Safe Drinking Water Act, Public Law 93-523 as amended
- l) Wild and Scenic Rivers Act, Public Law 90-542 as amended

## 2) Economic and Miscellaneous Authorities

- a) Demonstration Cities and Metropolitan Development Act of 1996, Public Law 89-754 as amended, Executive Order 12372
- b) Procurement Prohibitions under Section 306 of the Clean air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- c) Uniform Relocation and Real Property Policies Act, Public Law 91-646 as amended
- d) Debarment and Suspension, Executive Order 12549
- e) H.R. 3547, Consolidated Appropriations Act, 2014.

## 3) Social Policy Authorities

- a) Age Discrimination Act of 1975, Public Law 94-135
- b) Title VI of the Civil Rights Act of 1964, Public Law 88-352
- c) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500 (the Clean Water Act)
- d) Section 504 of the Rehabilitation Act of 1973, Public Law 93-112 (including Executive Orders 11914 and 11250)
- e) Equal Employment Opportunity, Executive Order 11246
- f) Disadvantaged Business Enterprise, Public Law 101-549 (the Clean Air Act), and Public Law 102-389 (the Clean Water Act)
- g) Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Public Law 100-590

## 4) State Laws

- a) Chapter 36.70A RCW, Growth Management Act
- b) Chapter 39.80 RCW, Contracts for Architectural and Engineering Services
- c) Chapter 39.12 RCW, Washington State Public Works Act
- d) Chapter 43.20 RCW, State Board of Health
- e) Chapter 43.70 RCW, Department of Health
- f) Chapter 43.155 RCW, Public Works Project
- g) Chapter 70.116 RCW, Public Water Systems Coordination Act of 1977
- h) Chapter 70.119 RCW, Public Water Supply Systems Certification and Regulation of Operations
- i) Chapter 70.119A RCW, Public Water Systems, Penalties & Compliances
- j) Chapter 246-290 WAC, Group A Public Water Systems
- k) Chapter 246-291 WAC, Group B Public Water Systems
- l) Chapter 246-292 WAC, Waterworks Operator Certification Regulations
- m) Chapter 246-293 WAC, Water Systems Coordination Act
- n) Chapter 246-294 WAC, Drinking Water Operating Permits
- o) Chapter 246-295 WAC, Satellite System Management Agencies
- p) Chapter 246-296 WAC Drinking Water State Revolving Fund Loan Program
- q) Chapter 173-160 WAC, Minimum Standards for Construction & Maintenance of Wells
- r) Title 173 WAC, Department of Ecology Rules
- s) Title 40 Part 141 Code of Federal Regulations, Federal National Primary Drinking Water Regulations (Section Adopted by Reference)



# ATTACHMENT III: DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

## GENERAL COMPLIANCE, 40 CFR, Part 33

The Contractor agrees to comply with the requirements of Environmental Protection Agency's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under this Contract, contained in 40 CFR, Part 33.

## FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

The following are exemptions from the fair share objective Requirements:

- Grant and loan recipients receiving a total of \$250K or less in EPA financial assistance in a given fiscal year.
- Tribal recipients of Performance Partnership Eligible grants under 40 CFR Part 35, Subpart B.
  - There is a 3-year phase in period for the requirement to negotiate fair share goals for Tribal and Insular Area recipients.
- Recipients of Technical Assistance Grants.

The Fair Share Objectives or goals for the utilization of disadvantaged businesses negotiated with EPA by the WA Office of Minority Women Business are stated below.

Construction	10% MBE	6% WBE
Supplies	8% MBE	4% WBE
Equipment	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE

By signing this Contract, the Contractor is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as WA Office of Minority Women Business goal is being adopted.

## SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the Contractor agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply.

Records documenting compliance with the six good faith efforts shall be retained. The six good faith efforts shall include:

- Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local Government recipients, this will include placing the Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- Consider in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State and Local Government recipients, this will include dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- If the prime contractor awards subcontracts, also require the prime contractor to take the five good faith efforts in paragraphs A through E above.

### **MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503**

Contractor is required to submit MBE/WBE participation reports to the Board and/or the Department of Health, on a quarterly basis, beginning with the Federal fiscal year reporting period the Contractor receives the award and continuing until the project is completed.

### **CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302**

The Contractor agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

The Contractor agrees to require all general contractors to provide forms: EPA Form 6100-2 DBE Subcontractor Participation Form and EPA Form 6100-3 DBE Subcontractor Performance Form to all its Disadvantaged Business Enterprise subcontractors, engineers, vendors, and any other entity for work or services listed in the declared SCOPE OF WORK. These two (2) forms may be obtained from the EPA Office of Small Business Program's website on the internet at <http://www.epa.gov/osbp/grants.htm>.

The Contractor agrees to require all general contractors to complete and submit to the Contractor and Environmental Protection Agency EPA Form 6100-4 DBE Subcontractor Utilization Form beginning with the Federal fiscal year reporting period the Contractor receives the award and continuing until the project is completed. Only procurements with certified MBE/WBEs are counted toward a Contractor's MBE/WBE accomplishments.

### **BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)**

The Contractor is also required to create and maintain a bidders list if the Contractor of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

Section 33.501(b) of the rule is as follows:

A recipient of a Continuing Environmental Program Grant or other annual grant must create and maintain a bidders list. In addition, a recipient of an EPA financial assistance agreement to capitalize a revolving loan fund also must require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. The purpose of a bidders list is to provide the recipient and entities receiving identified loans who conduct competitive bidding with as accurate a database as possible about the universe of MBE/WBE and non-MBE/WBE prime and subcontractors. The list must include all firms that bid or quote on prime contracts or bid or quote on subcontracts under EPA assisted projects, including both MBE/WBEs.

The bidders list must be kept until the grant project period has expired and the recipient is no longer receiving EPA funding under the grant. For entities receiving identified loans, the bidders list must be kept until the project period for the identified loan has ended. The following information must be obtained from all prime and subcontractors:

- (1) Entity's name with point of contact;
- (2) Entity's mailing address, telephone number, and e-mail address;
- (3) The procurement on which the entity bid or quoted, and when; and
- (4) Entity's status as a MBE/WBE<sup>1</sup> or non-MBE/WBE.

The exemption found at § 33.501(c) is as follows:

A recipient of an EPA financial assistance agreement in the amount of \$250,000 or less for any single assistance agreement, or of more than one financial assistance agreement with a combined total of \$250,000 or less in any one fiscal year, is exempt from the paragraph (b) of this section requirement to create and maintain a bidders list. Also, a recipient under the CWSRF, DWSRF, or BCRLF Program is not required to apply the paragraph (b) of this section bidders list requirement of this subpart to an entity receiving an identified loan in an amount of \$250,000 or less, or to an entity receiving more than one identified loan with a combined total of \$250,000 or less in any one fiscal year. This exemption is limited to the paragraph (b) of this section bidders list requirements of this subpart.

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<sup>1</sup> Qualified Women and Minority business enterprises may be found on the Internet at [www.omwbe.wa.gov](http://www.omwbe.wa.gov) or by contacting the Washington State Office of Minority and Women's Enterprises at 360-704-1181.



# ATTACHMENT IV: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS



United States Environmental Protection Agency  
Washington, DC 20460

EPA Project Control Number

The prospective participant certifies to the best of its knowledge and belief that it and the 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 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 antitrust 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 otherwise criminally or civilly charged by a government 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-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

\_\_\_\_\_  
Typed Name & Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

I am unable to certify to the above statements. My explanation is attached.

**EPA Form 5700-49 (11-88)**



# ATTACHMENT V: DWSRF ELIGIBLE PROJECT COSTS

Must be directly attributable to the project.

1. The costs for complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
2. DWSRF loan fees.
3. The purchase of a portion of another system's capacity, if it is the most cost effective solution (limited to publicly owned (municipal) systems).
4. Construction of reservoirs (clear wells) that are part of the treatment process and are collocated with the treatment facility.
5. Construction of distribution reservoirs (finished water).
6. Cost associated with restructuring or consolidation of existing water systems by publicly owned water systems.
7. Main extensions to connect to safe and reliable sources of drinking water.
8. Cost associated with collecting and preparing environmental assessment documents to obtain local permits.
9. Direct labor including related employee benefits:
  - a. Salaries and wages (at actual or average rates) covering productive labor hours of employees of the borrower (excluding the administrative organization of the operating unit involved) for periods of time actively or incidentally engaged in pre-design engineering, design engineering, construction engineering, acquisition of rights of way, and the cleaning, sterilization or bacteriological testing of water system components prior to public use. The costs of services rendered by employees generally classified as administration/project management of the loan are considered a direct cost only when such employees are assigned the types of services described above and shall be limited to 3% or less of the project loan amount.
  - b. Employee benefits relating to labor are considered a direct cost of construction projects. The following items may be included as employee benefits:
    - F.I.C.A. (Social Security) –employer's share.
    - Retirement benefits.
    - Hospital, health, dental, and other welfare insurance.
    - Life insurance.
    - Industrial and medical insurance.
    - Vacation.
    - Holiday.
    - Sick leave.
    - Military leave and jury duty.

Employee benefits must be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs must be based on the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

- c. Other than work identified in Number 9.a, no costs associated with labor performed by the borrower's employees, including force account work, are eligible for financing assistance.
10. Contract engineering, planning, design, legal, and financial planning services. The Board reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.
11. Contract construction work.
12. Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county-owned equipment, at the rental rates established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations. However, such costs must be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of eight thousand or less not using this type of fund are allowed the same rates as used by the State Department of Transportation.
13. Direct materials and supplies.
14. Other direct costs incurred for materials or services acquired for a specific project are eligible costs and may include, but are not limited to such items as:
  - a. Telephone charges.
  - b. Reproduction and photogrammetry costs.
  - c. Video and photography for project documentation.
  - d. Computer usage.
  - e. Printing and advertising.
15. Other project related costs include:
  - Competitive Bidding.
  - Audit.
  - Insurance.
  - Prevailing wages.
  - Attorney fees.
  - Environmental Review.
  - Archaeological Survey.

Water system plan costs are not eligible for reimbursement. Small water system management program and plan amendments costs are eligible for reimbursement.

Projects may be designed to accommodate reasonable growth. This is generally the 20-year projection included in the system's water system plan or small water system management program.



# ATTACHMENT VI: LABOR STANDARD PROVISIONS FOR SUBRECIPIENTS THAT ARE GOVERNMENTAL ENTITIES

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## Wage Rate Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)

### Preamble

With respect to the Clean Water and Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each State which in turn provides subgrants or loans to eligible entities within the State. Typically, the subrecipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the subrecipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), below and for compliance as described in Section II-5.

### **I. Requirements Under The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)**

#### **For Subrecipients That Are Governmental Entities:**

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the FY 2013 Continuing Resolution with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact Department of Commerce. If a State recipient needs guidance, they may obtain additional guidance from DOL's web site at <http://www.dol.gov/whd/>.

#### **1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.**

Under the FY 2013 Continuing Resolution, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

#### **2. Obtaining Wage Determinations.**

(a) Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

- (i) While the solicitation remains open, the subrecipient shall monitor [www.wdol.gov](http://www.wdol.gov) weekly to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the subrecipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the subrecipient.
- (ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The subrecipient shall monitor [www.wdol.gov](http://www.wdol.gov) on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the subrecipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from [www.wdol.gov](http://www.wdol.gov) into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the subrecipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

### **3. Contract and Subcontract provisions.**

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2013 Continuing Resolution, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, [www.dol.gov](http://www.dol.gov).

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for

determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is



not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

#### **4. Contract Provision for Contracts in Excess of \$100,000.**

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be

necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

## **5. Compliance Verification**

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB.

Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the Department of Commerce and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/contacts/whd/america2.htm>.



**Staff Report**  
**Final Plat for Parker Village, Phase 2**

File No. FP16-08

(Related Files: SUB05-02, DR06-02, MajMod14-01 and MinMod16-02)

TO: Mayor Higgins  
 City Council

FROM: Robert Maul, Planning Manager

LOCATION: The site is located at the future intersection of NW 20<sup>th</sup> Avenue and NW Brady Road. Parcel number 125191-000 (tax lot 15). SW1/4 Sec 04, T1N, R3E Willamette Meridian.

OWNER: Parker Village, LLC  
 Attn: Patrick Ginn  
 800 NE Tenny Road  
 Vancouver, WA 98685

APPLICABLE LAW: The application was submitted August 24<sup>th</sup>, 2016, and the applicable codes are those codes that were in effect at the date of application. Camas Municipal Code Chapters (CMC): Title 18 Zoning (not exclusively): CMC Chapter 17.21 Procedures for Public Improvements; and CMC Chapter 18.55 Administration and Procedures; and RCW Chapter 58.17.

**BACKGROUND INFORMATION**

Lots: 24 residential lots, and one commercial lot. Total Area: 7.84 acres

Critical Areas: 18,693 square feet of wetlands that was mitigated off site.

The original approval granted by the City of Camas was for a 75 lot single family-attached subdivision with a commercial lot located at the northeast corner of the subject site. The project has since been revised for 60 lots for residential and one lot for Commercial to be developed in three Phases. This is for phase 2, which has 24 lots. This staff report addresses the requirements for final plat approval. Staff found that the applicant met the requirements in accordance with CMC§17.21.060.

Conditions of Approval (SUB05-02)	Findings
1. Stormwater treatment and control facilities shall be designed in accordance with the 1992 Puget Sound Stormwater Manual design guidelines. Final stormwater calculations shall be submitted at the time of final construction plan submittal.	Stormwater report was approved and is on file.
2. All construction plans will be prepared in accordance with City of Camas standards. The plans will be prepared by a licensed civil engineer in Washington State and submitted to the City for review and approval.	Construction plans were approved.

<p>3. Underground (natural gas, CATV, power, street light and telephone) utility plans shall be submitted to the City for review and approval prior to approval of the construction plans.</p>	<p>Construction plans were approved and installed as required.</p>
<p>4. The applicant will be required to purchase all permanent traffic control signs, street name signs, street lighting and traffic control markings and barriers for the improved subdivision. The City will supply the list of required signs, markings and barriers at the time paving is scheduled.</p>	<p>Installed/bonded as required.</p>
<p>5. A 3% construction plan review and inspection fee shall be required for this development. The fee will be based on an engineer's estimate or construction bid. The specific estimate will be submitted to the City for review and approval. The fee will be paid prior to the construction plans being signed and released to the applicant. Under no circumstances will the applicant be allowed to begin construction prior to approval of the construction plans.</p>	<p>Construction plans were approved and fee received.</p>
<p>6. Any entrance structures or signs proposed or required for this project will be reviewed and approved by the City. All designs will be in accordance with applicable City codes. The maintenance of the entrance structure will be the responsibility of the homeowners.</p>	<p>Maintenance provisions are included in CC&amp;Rs.</p>
<p>7. A homeowner's association (HOA) will be required for this development. The applicant will be required to furnish a copy of the C.C. &amp; R.'s for the development to the City for review. Specifically, the applicant will need to make provisions in the C.C. &amp; R.'s for maintenance of the stormwater detention and treatment facilities, the gated entry and any storm drainage system, fencing, landscaping, retaining walls, or easements outside the City's right of way (if applicable).</p>	<p>CC&amp;R's were reviewed and approved.</p>
<p>8. Building permits shall not be issued until this subdivision is granted Final Acceptance.</p>	<p>Complies</p>
<p>9. The applicant shall remove all temporary erosion prevention and sediment control measures from the site at the end of the two-year warranty period, unless otherwise directed by the Public Works Director.</p>	<p>Conditioned and bonded</p>
<p>10. Final plat and final as-built construction drawing submittals shall meet the requirements of the CMC 17.11.060, CMC 17.01.050 and the Camas Design Standards Manual for engineering as-built submittals.</p>	<p>Submitted</p>
<p><b>B. Special Conditions of Approval</b></p>	

<p>1. The applicant shall provide a public access and utility easement 15 feet in width to NW Brady Road and adjacent developments at the southern end of the parcel through and over Lots 16 and 39. The easement will be maintained by the HOA and provisions will be reflected in the HOA CC&amp;R's prior to final platting.</p>	<p>Complies</p>
<p>2. The applicant shall provide a pedestrian connection to NW Brady Road over Tract B and Tract C. The pedestrian connection shall be maintained by the HOA</p>	<p>Complies</p>
<p>3. The applicant shall mitigate per the DOE standards for the filling of 0.46 acres of wetland as delineated in the Wetland Delineation and Wetland Mitigation reports prepared by The Resource Company, Inc. (dated Oct. 26, 2012, Nov. 1, 2013 &amp; Oct.25, 2013). Mitigation shall include: 1) Consent of the property owner on the site for which the mitigation will take place; 2) Verification from Clark County that the project is consistent with its environmental regulations; 3) Annual reporting of the mitigation measures and replacement as necessary provided by the biologist of record; 4) A surety bond in the amount of 105% of the actual costs of initial mitigation consistent with CMC17.21.050.</p>	<p>Complies</p>
<p>4. Prior to final engineering approval, the applicant shall demonstrate adequate sight distance will exist for the proposed 50-foot radius curves with a design speed of 15 miles per hour. If adequate sight distance cannot be achieved the applicant shall install a sufficiently large enough radius curves designed for no less than 15 miles per hour that will provide the required sight distance. The adjacent lots 49, 55 and 60 may require modification or elimination.</p>	<p>Complies</p>
<p>5. The permitting and installation of the gated entry shall be subject to the provisions and requirements of CMC 12.36.</p>	<p>Complies</p>
<p>6. The applicant submit an estimate of costs for half-width improvements on NW Brady Road acceptable to the city and pay a fee in lieu of the required improvements.</p>	<p>Complies</p>

<p>7. The applicant shall establish an easement and use agreement acceptable to the City over and across Lot 61 for placement of the large community septic tanks. The easement and use agreement shall specify the intended use, possible future temporary loss of use of the easement area by the owner of Lot 61 for any required City maintenance, repair and or replacement of the tanks. Additionally the easement and use agreement shall specify private responsibilities and/or requirements for any surface restoration associated with any required City maintenance, repair or replacement of the tanks. A note referencing this easement and use agreement shall be added to the final plat.</p>	<p>Complies</p>
<p>8. A note shall be added to final plat noting that the left in turn movement from NW Brady Road on to Lot 61 may be prohibited at any time in the future if deemed to be necessary by the City Engineer.</p>	<p>Complies</p>
<p>9. The final plat shall show lot setbacks meeting the requirements of CMC 18.09.050 – Table-3.</p>	<p>Conditioned for building</p>
<p>10. Design review approval for residential lots 1-60 and for the commercial Lot 61 is required prior to issuance of building permits.</p>	<p>Conditioned for building</p>
<p>11. In accordance with CMC 16.53 the applicant shall submit a Final Wetland Mitigation and Monitoring Plan prior to Final Plat approval.</p>	<p>Complies</p>
<p>12. The applicant shall provide the city with acceptable documentation authorization the proposed off-site wetland mitigation work.</p>	<p>Complies.</p>
<p>13. The applicant shall provide financial assurances for the mitigation and monitoring in an amount equal to 150% of the estimated cost for the maintenance and monitoring periods identified in the final mitigation plan.</p>	<p>Complies</p>
<p>14. The applicant shall provide enhanced landscaping and attractive fencing for the stormwater facility. Final landscaping plans shall be submitted at the time of final engineering review.</p>	<p>Complies.</p>

### Final Plat Criteria for Approval (CMC 17.21.060-C)

1. That the proposed final plat bears the required certificates and statements of approval;
2. That the title insurance report furnished by the developer/owner confirms the title of the land, and the proposed subdivision is vested in the name of the owner(s) whose signature(s) appears on the plat certificate;
3. That the facilities and improvements required to be provided by the developer/owner have been completed or, alternatively, that the developer/owner has submitted with the proposed final plat an improvement bond or other security in conformance with CMC 17.21.040;
4. That the plat is certified as accurate by the land surveyor responsible for the plat;
5. That the plat is in substantial conformance with the approved preliminary plat; and
6. That the plat meets the requirements of Chapter 58.17 RCW and other applicable state and local laws which were in effect at the time of preliminary plat approval.

Findings: The submitted plat meets the requirements of CMC 17.21.060-C, is consistent with the applicable conditions of approval, and with the applicable state and local regulations.

### Recommendation

Staff recommends that Council approve the final plat for Parker Village Phase 2 Subdivision.

PREPARED BY:  
KPF SURVEYING, INC.  
1514 N.E. 267TH AVE.  
CAMAS, WA. 98607  
(360) 834-0174

**PARKER VILLAGE SUBDIVISION  
PHASE 2**

A SUBDIVISION OF TRACT "L" OF  
"PARKER VILLAGE PHASE 1" (311-823)  
A PORTION OF THE  
SW 1/4 OF THE SW 1/4  
OF SECTION 04  
T. 1 N., R. 3 E., W.M.  
CITY OF CAMAS  
CLARK COUNTY, WASHINGTON  
SHEET 1 OF 2

**NOTES:**

1. A HOMEOWNERS ASSOCIATION (HOA) WILL BE REQUIRED FOR THIS DEVELOPMENT. COPIES OF THE C.C. & R'S SHALL BE SUBMITTED AND ON FILE WITH THE CITY OF CAMAS.
2. BUILDING PERMITS WILL NOT BE ISSUED BY THE BUILDING DEPARTMENT UNTIL ALL SUBDIVISION IMPROVEMENTS ARE COMPLETED AND FINAL ACCEPTANCE HAS BEEN ISSUED BY THE CITY.
3. THE LOTS IN THIS SUBDIVISION ARE SUBJECT TO TRAFFIC IMPACT FEES, SCHOOL IMPACT FEES AND PARK/OPEN SPACE IMPACT FEES. EACH NEW DWELLING WILL BE SUBJECT TO THE PAYMENT OF APPROPRIATE IMPACT FEES AT THE TIME OF BUILDING PERMIT ISSUANCE.
4. TRACTS A AND B ARE PRIVATE ACCESS TRACTS OWNED AND MAINTAINED BY THE HOA.
5. TRACT F IS A PRIVATE STREET TRACT OWNED AND MAINTAINED BY THE HOA. THERE IS AN ACCESS AND UTILITY EASEMENT GRANTED TO ANY OF THE LOTS HEREIN AND FOR ANY FUTURE LOTS WITHIN PHASE 2. ALSO AN ACCESS AND UTILITY EASEMENT GRANTED TO THE CITY OVER THIS TRACT FOR MAINTENANCE OF THE PUBLIC WATER AND SANITARY SEWER.
6. TRACTS C, D, E AND I ARE OPEN SPACE AND LANDSCAPE TRACTS AND SHALL BE OWNED AND MAINTAINED BY THE HOA.
7. TRACT G AND K ARE STORMWATER FACILITIES AND SHALL BE OWNED AND MAINTAINED BY THE HOA.
8. THE MAXIMUM LOT COVERAGE SHALL BE 75% FOR LOTS 1-60.
9. LEFT IN TURN MOVEMENT FROM NW BRADY ROAD ON TO LOT 61 MAY BE PROHIBITED AT ANY TIME IN THE FUTURE IF DEEMED TO BE NECESSARY BY THE CITY ENGINEER.
10. TRACTS H AND J ARE OPEN/SPACE PARKING TRACTS TO BE OWNED AND MAINTAINED BY THE HOA.
11. A FINAL OCCUPANCY PERMIT WILL NOT BE ISSUED BY THE BUILDING DEPARTMENT UNTIL ALL SUBDIVISION IMPROVEMENTS ARE COMPLETED AND ACCEPTED BY THE CITY.
12. AUTOMATIC FIRE SPRINKLER SYSTEMS DESIGNED AND INSTALLED IN ACCORDANCE WITH NFPA 13D ARE REQUIRED IN ALL STRUCTURES.
13. IN THE EVENT THAT ANY ITEM OF ARCHAEOLOGICAL INTEREST IS UNCOVERED DURING THE COURSE OF A PERMITTED GROUND DISTURBING ACTION OR ACTIVITY, ALL GROUND DISTURBING ACTIVITIES SHALL IMMEDIATELY CEASE AND THE APPLICANT SHALL NOTIFY THE PUBLIC WORKS DEPARTMENT AND DAHP.
14. LIGHT INDUSTRIAL BUSINESSES PREDATE THIS DEVELOPMENT, AS SUCH THE CITY AND THE LIGHT INDUSTRIAL BUSINESSES WILL NOT BE REQUIRED TO MODIFY THEIR OPERATIONS TO RESIDENTIAL EXPECTATIONS.
15. IN ACCORDANCE WITH CMC 16.53 THE APPLICANT SHALL SUBMIT A FINAL WETLAND MITIGATION AND MONITORING PLAN PRIOR TO FINAL PLAT APPROVAL.
16. SEE AUDITOR'S FILE NUMBER 5284808, AN EASEMENT AND USE AGREEMENT, OVER AND ACROSS LOT 61 FOR PLACEMENT OF THE LARGE COMMUNITY SEPTIC TANKS.

**PERIMETER DESCRIPTION:**

A TRACT OF LAND LOCATED IN A PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN, CLARK COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 4;

THENCE SOUTH 88°29'00" EAST, ALONG THE SOUTH LINE OF SAID SECTION 4, FOR A DISTANCE OF 34.32 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 01°21'14" EAST, FOR A DISTANCE OF 555.00 FEET;

THENCE SOUTH 88°29'00" EAST, FOR A DISTANCE OF 616.05 FEET TO A POINT ON THE CENTERLINE OF NORTHWEST BRADY ROAD;

THENCE SOUTH 01°29'23" WEST, ALONG SAID CENTERLINE, FOR A DISTANCE OF 555.00 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 4;

THENCE NORTH 88°29'00" WEST, ALONG SAID SOUTH LINE OF SECTION 4, FOR A DISTANCE OF 614.74 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 7.84 ACRES, MORE OR LESS.

TOGETHER WITH AND SUBJECT TO EASEMENTS, RESERVATIONS, COVENANTS AND RESTRICTIONS APPARENT OR OF RECORD.

**DEED REFERENCE:**

GRANTOR: IMV9 INTERSTATE LLC  
GRANTOR: PARKER VILLAGE LLC  
AUDITORS FILE NUMBER: 4909284  
DATE: NOV. 6, 2012

**SURVEY REFERENCES:**

- 1) OLSON SURVEY BOOK 33, PAGE 14
- 2) MACKAY AND SPOSITO SURVEY BOOK 33, PAGE 96
- 3) "DEER CREEK PHASE I", BOOK 310, PAGE 586
- 4) "DEER CREEK PHASE II", BOOK "J", PAGE 380
- 5) "PARKER VILLAGE PHASE 1", BOOK 311, PAGE 823

**CITY OF CAMAS MAYOR:**

APPROVED: \_\_\_\_\_ DATE \_\_\_\_\_  
CITY OF CAMAS MAYOR

ATTESTED BY: \_\_\_\_\_ DATE \_\_\_\_\_  
CITY OF CAMAS FINANCE DIRECTOR

**CITY OF CAMAS COMMUNITY DEVELOPMENT DEPARTMENT:**

APPROVED: \_\_\_\_\_ DATE \_\_\_\_\_  
CITY OF CAMAS COMMUNITY DEVELOPMENT DIRECTOR, OR DESIGNEE

**CITY OF CAMAS ENGINEER:**

A) ALL IMPROVEMENTS HAVE BEEN INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS TITLE AND WITH THE PRELIMINARY PLAT APPROVAL;

B) ALL IMPROVEMENTS MEET CURRENT PUBLIC WORKS DRAWING STANDARDS FOR ROAD, UTILITY AND DRAINAGE CONSTRUCTION PLANS;

C) ORIGINAL AND REPRODUCIBLE MYLAR OR ELECTRONIC RECORDS IN A FORMAT APPROVED BY THE PUBLIC WORKS DIRECTOR OR DESIGNEE AND CERTIFIED BY THE DESIGNING ENGINEER AS BEING "AS CONSTRUCTED" HAVE BEEN SUBMITTED FOR CITY RECORDS.

APPROVED: \_\_\_\_\_ DATE \_\_\_\_\_  
CITY OF CAMAS ENGINEER

**FIRE CHIEF:**

APPROVED: \_\_\_\_\_ DATE \_\_\_\_\_  
FIRE CHIEF, OR DESIGNEE

**CLARK COUNTY ASSESSOR:**

THIS PLAT MEETS THE REQUIREMENTS OF R.C.W. 58.17.170, LAWS OF WASHINGTON, TO BE KNOWN AS PARKER VILLAGE SUBDIVISION, PHASE 2, PLAT NO. \_\_\_\_\_ IN THE COUNTY OF CLARK, STATE OF WASHINGTON.

COUNTY ASSESSOR \_\_\_\_\_ DATE \_\_\_\_\_

**CLARK COUNTY AUDITOR:**

FILED FOR RECORD THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016  
IN BOOK \_\_\_\_\_ OF PLATS, AT PAGE \_\_\_\_\_  
AT THE REQUEST OF PARKER VILLAGE LLC  
AUDITOR'S RECEIVING NO. \_\_\_\_\_

DEPUTY/COUNTY AUDITOR \_\_\_\_\_

**SURVEYOR'S CERTIFICATE:**

I HEREBY CERTIFY THAT THIS PLAT AS SHOWN IS A TRUE RETURN FROM THE FIELD AND THAT THE DELINEATION IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

KYLE P. FEEDER, PROFESSIONAL LAND SURVEYOR DATE \_\_\_\_\_  
PLS NO. 41032



**UTILITY AND SIDEWALK EASEMENT:**

AN EASEMENT IS HEREBY RESERVED UNDER AND UPON THE EXTERIOR SIX (6) FEET AT THE FRONT BOUNDARY LINES OF ALL LOTS FOR THE INSTALLATION, CONSTRUCTING, RENEWING, OPERATING AND MAINTAINING ELECTRIC, TELEPHONE, TV CABLE, WATER AND SANITARY SEWER SERVICES. ALSO A SIDEWALK EASEMENT AS NECESSARY TO COMPLY WITH ADA SLOPE REQUIREMENTS UPON THE EXTERIOR SIX (6) FEET ALONG THE FRONT BOUNDARY LINES OF ALL LOTS ADJACENT TO PUBLIC AND PRIVATE STREETS.

DATE:	8-21-16
SCALE:	NA
JOB NO.:	15-056
CALC BY:	KPF
DRAWN BY:	GLF
CHECKED BY:	KPF
SHEET	1 OF 2

**KPF**

SURVEYING, INC.  
1514 N.E. 267TH AVE. CAMAS, WA 98607  
360-834-0174 FAX: 360-838-0155

KPF SURVEYING, INC. MAKES NO WARRANTIES AS TO MATTERS OF UNWRITTEN TITLE SUCH AS ADVERSE POSSESSION, ACQUIESCENCE, ESTOPPEL, ETC.

A FIELD TRAVERSE WAS PERFORMED USING A ONE SECOND TOTAL STATION. THE FIELD TRAVERSE MET THE MINIMUM STANDARDS FOR SURVEYS AS DESIGNATED IN WAC 332-130-090. ALL CORNERS NOTED AS FOUND WERE VISITED IN JULY 2016.

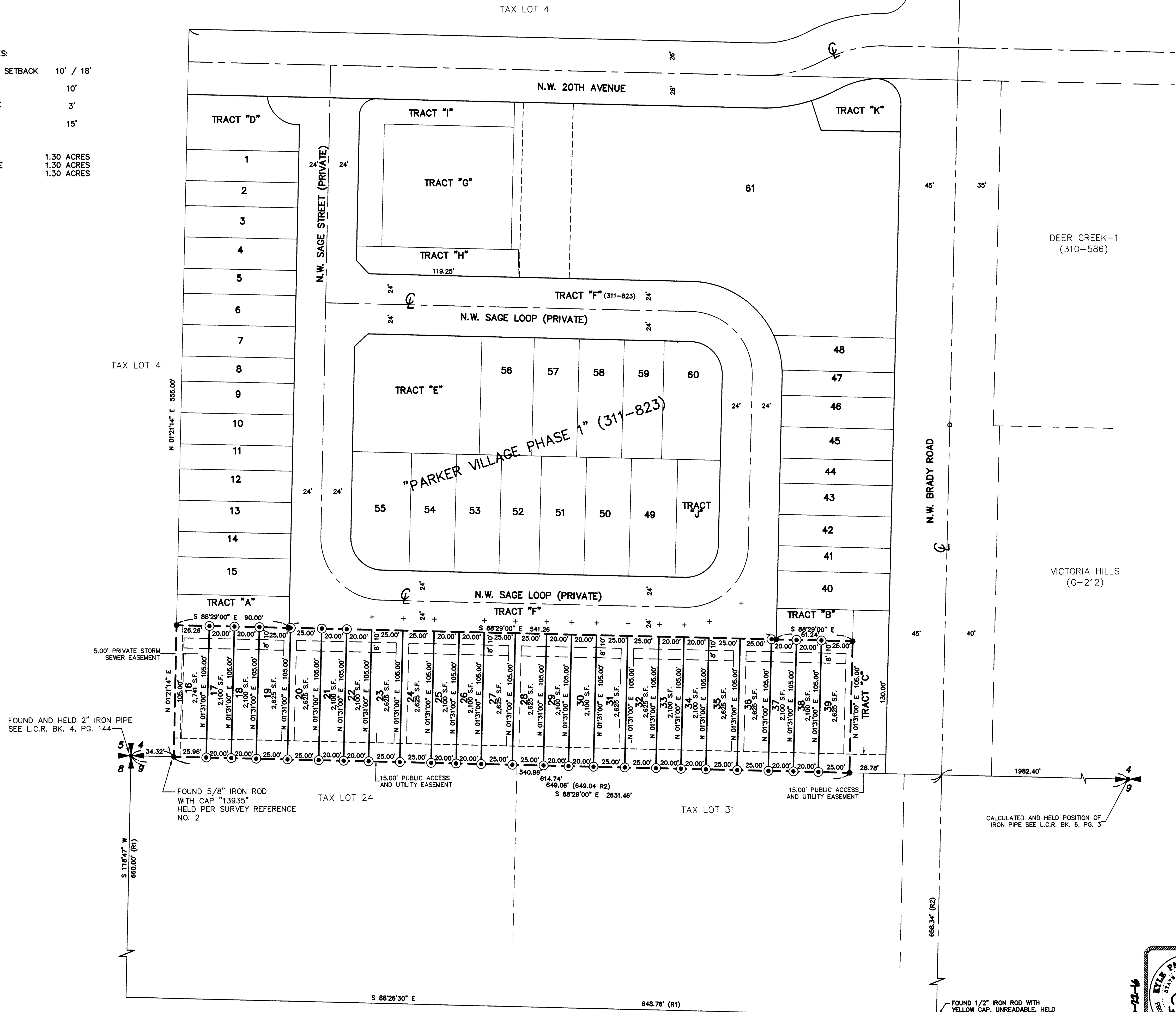


PREPARED BY:  
KPF SURVEYING, INC.  
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CAMAS, WA 98607  
(360) 834-0174

MINIMUM BUILDING SETBACKS:  
FRONT SETBACK / GARAGE SETBACK 10' / 18'  
REAR SETBACK 10'  
UNATTACHED SIDE SETBACK 3'  
STREET SIDE SETBACK 15'

LAND INVENTORY  
TOTAL ACREAGE 1.30 ACRES  
TOTAL DEVELOPED ACREAGE 1.30 ACRES  
TOTAL LOT AREA 1.30 ACRES

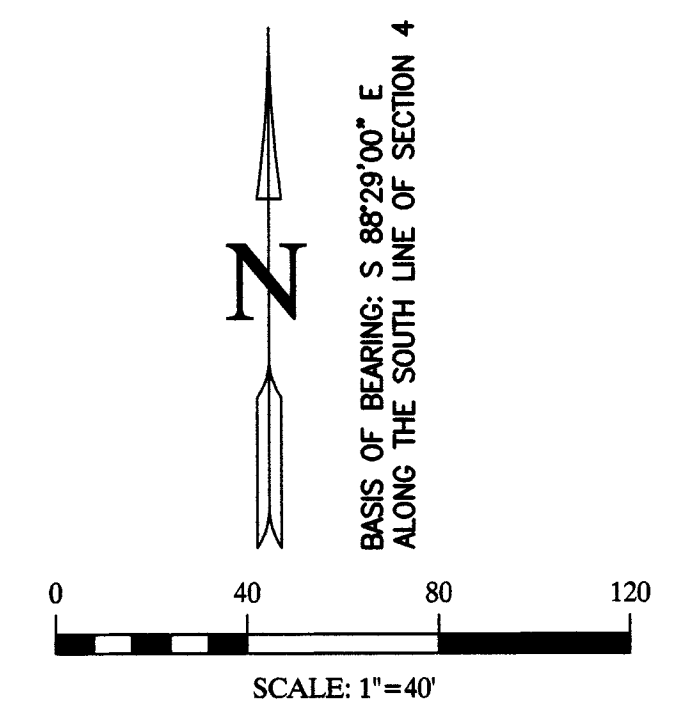
**PARKER VILLAGE SUBDIVISION  
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SW 1/4 OF THE SW 1/4  
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T. 1 N., R. 3 E., W.M.  
CITY OF CAMAS  
CLARK COUNTY, WASHINGTON  
SHEET 2 OF 2



SEE "PARKER VILLAGE PHASE 1"  
BOOK 311, PAGE 823  
FOR ADDITIONAL SURVEY INFORMATION

**LEGEND**

- INDICATES FOUND MONUMENT PER SURVEY REFERENCE NO. 5, UNLESS NOTED OTHERWISE
- ⊙ INDICATES 1/2" x 24" IRON ROD WITH (FEEDER 41023) CAP SET
- INDICATES CALCULATED POSITION
- ⊗ INDICATES ROCK NAIL WITH BRASS WASHER INSCRIBED "FEEDER 41032" SET AT THE EXTENSION OF ALL LOT LINES IN THE CURB FOR THE PURPOSE OF LINE NOT DISTANCE.
- INDICATES RIGHT-OF-WAY
- - - INDICATES CENTERLINE
- INDICATES SUBJECT PROPERTY
- INDICATES LOT LINE
- - - INDICATES EASEMENT



DATE:	8-21-16
SCALE:	1"=40'
JOB NO.:	15-056
CALC BY:	KPF
DRAWN BY:	GLF
CHECKED BY:	KPF
SHEET	2 OF 2

**KPF**  
SURVEYING, INC.  
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