
AGENDA
OMAK CITY COUNCIL MEETING
August 19, 2019 – 7:00 PM



ORIGINAL

A. CALL TO ORDER

B. FLAG SALUTE

C. CITIZEN COMMENTS

D. CORRESPONDENCE AND MAYOR'S REPORT

E. CONSENT AGENDA:

1. Approval of minutes from August 5, 2019
2. Approval of Claims



F. PUBLIC HEARING:

1. Closed Record Hearing – Appeal of Judd CUP 02-2019



G. NEW BUSINESS:

1. Res. 57-2019 – Accepting WSDOT Grant Agr. for Omak Airport Project-Taxiway & Apron
2. Res. 58-2019 – Approve Product Supply Agreement with Oxarc
3. Res. 59-2019 – Approve Contract with Cummins Sales for Backup Generator Repair



H. OTHER BUSINESS:

1. Council Committee Reports
2. Staff Reports

Action by City Council

The Omak City Hall is accessible to persons with disabilities. Hearing or visually impaired persons requiring special accommodations should contact the City Clerk one week in advance of the meeting by calling 509-826-1170 or e-mail clerk@omakcity.com in order to be provided assistance.

STAFF REPORT APPEAL OF CUP 02-2019

DATE: Original - July 12, 2019
Revised – August 15, 2019

TO: Original For: City of Omak Hearings Examiner, Dale Crandall
Revised For: Omak City Council

FROM: Jake (Patrick) Dalton CBO, Building Official/Permit Administrator

Original: Conditional Use Permit Application For a Residential Duplex in a Single Family Zone

RE: Appeal of Conditional Use Permit CUP-02 - 2019

Background:

Lana and Eric Judd has filed an application for a Conditional Use permit. According to the application documents submitted, Mr. and Mrs. Judd are proposing to construct a Residential Duplex in a Single-Family Zone. Omak Municipal Code (OMC) District Use Chart 1.0 indicates a Conditional Use Permit is required.

The application was accepted as complete on June 12, 2019 and the public notice and review requirements of OMC 19.05.030, 19.05.040 and 19.05.050 for a Type III permit was initiated and the comment period on the application ended on July 3, 2019. A SEPA Checklist and subsequent Determination of Non-Significance for a previous Land Use process for the same parcel dated October 31, 2018 was accepted. See Attachment A for copies of all written comments received during the public comment period.

The required public hearing was held before Dale Crandall, Omak Hearing Examiner on July 12, 2019. See Attachment B for a copy of the hearing record.

The Hearing Examiner issued Findings for CUP 02 – 2019 on July 18, 2019 approving the CUP with conditions. See Attachment C for a copy of the Findings for CUP 02 – 2019.

As required by OMC 19.05.070, a notice of the Hearing Examiner's decision and notice that any appeals had to be filed with the City Clerk by August 8, 2019 was provided to the applicant and all parties of record on July 24, 2019 See Attachment D for a copy of said notice of decision.

On July 26, 2019, the City Clerk received a written appeal of the Hearing Examiner's decision. See Attachment E for written appeal.

In accordance with OMC 19.05.070 notice of the appeal was provided to all parties of record, see Attachment F for copy of notice and a notice of the closed record appeal hearing set before the City Council on August 19, 2019.

Location Information:

The location is 120 East Hale Avenue, Parcel # 8867000100 also known as Lot 1 J Peterson Short Plat Omak, Okanogan County.

Comprehensive Plan Designation:

The proposed conditional use is within an area designated as "Residential Single Family". According to the City of Omak Municipal Code, the purpose of the RS—Residential Single Unit district is to implement the "low density" designation described in the greater Omak comprehensive plan. This district is intended for existing and new areas characterized by primarily single-unit dwellings (Section 18.08.153). All such areas

lie within the urban growth area as identified in the greater Omak area comprehensive plan. Areas within this district either already have access to city services, or such services are readily available due to the close proximity to the city limits.

Current Zoning:

The subject property is zoned "Residential Single Family" by Title 18 of the Omak Municipal Code.

Floodplains, Shorelines, SEPA, Critical Areas and Other Environmental Constraints:

The subject property is not located within the mapped floodplain protected zone and shoreline urban environment. The site is located in an Aquifer Recharge area with Moderate Recharge Potential. A SEPA checklist was submitted as required for a Conditional Use Permit review and the responsible official issued a "Determination of Non-Significance" on October 24, 2018 with an appeal/comment period ending on November 21, 2018.

(Note: The referenced SEPA document has been accepted for this CUP Land Use action.)

Reviewing Agencies:

The land use application form, SEPA checklist (Note: The referenced SEPA document has been accepted for this CUP Land Use action) and related information was circulated among appropriate agencies and City Staff beginning on June 3, 2019 with written comments from city staff, other agencies and the public will be included in the project file. ~~To date, there have been no verbal objections to the proposal.~~ **All written comments are contained in Attachment A.**

Analysis:

The Hearings Examiner had the task of hearing testimony on the proposed conditional use permit application, reviewing the comments received during the review process then make a decision whether to approve, approve with conditions, or deny the permit. OMC Chapter 18.50 provides the procedure for review and approval of conditional uses. The most important part of the process is to determine whether the proposed use will be consistent with the criteria set forth in OMC Chapter 18.50 as follows:

- (1) The proposed use will promote the health, safety and general welfare of the community.*
- (2) The proposed use and development complies with provisions of all other applicable ordinances*
- (3) There will be a minimum of detrimental effects caused by the proposed use. To that end, the hearings examiner may, after considering recommendations of the administrator, impose any condition, requirement, limitation, or standard deemed necessary to carry out the purpose and intent of this title or to further the goals and objectives of the comprehensive plan.*

The Hearing Examiner complied with these duties and held an open record public hearing on July 12, 2019 and approved CUP 02-2019 with written Findings on July 18, 2019. See Attachment C for a copy of Findings.

Recommendation:

The staff recommendation for the Hearing Examiner was ~~Staff recommends~~ that the Hearing's Examiner approve the Conditional Use Permit application for a new Residential Duplex to be constructed in the Single Family Zone on the above mentioned property subject to the conditions outlined below:

(a) There shall be a total of four (4) onsite parking spaces, two per dwelling unit, clearly delineated and signed for each dwelling unit and maintained in perpetuity.

(b) There shall be a complete one-hour fire resistive separation between the dwelling units. A City of Omak Building Permit shall be required.

(c) Noncompliance or violation of these conditions shall be strictly enforced by in accordance with Section 18.52.070 of this title.

Findings of Fact:

The following Findings of Fact support the staff recommendation of approval.

1. That all requirements for processing a conditional use permit contained in Chapter 18.50 and Chapter 18.52.060 of the Omak Municipal Code were followed during the processing of this CUP and the applicants, heirs and assigns are required to adhere to the proceeding conditions and future regulations for further land use actions on development proposals.
2. That approval of the conditional use permit does not represent a granting of special privileges to the applicant.
3. That the proposed use is consistent with the Greater Omak Area Comprehensive Plan (as revised March 13, 2013).
4. That the public interest will not be harmed by the granting of the conditional use permit.
5. That a SEPA "DNS" was issued on October 24, 2018, with comment period ending on November 21, 2018. (Note: The referenced SEPA document has been accepted for this CUP Land Use action.)
6. That adequate city services are available to serve the proposed use.

Jake (Patrick) Dalton CBO
Building Official/Permit Administrator
August 15, 2019

ATTACHMENT A – COPIES OF WRITTEN COMMENTS

Jake Dalton

From: CenturyLink Customer <jbussler@q.com>
Sent: Monday, July 1, 2019 10:09 AM
To: Jake Dalton
Subject: Lana and Eric Judd Residential Duplex Conditional Use Permit

Jake Dalton, Building Official/Permit Administrator;

My vote is No
for a Conditional Use Permit
for a Residential Duplex in a Residential Single Family Zoning District.
The subject property is located at 120 East Hale Avenue Parcel #8867000100, located withing
Section 26, Township 34, and Range 26 East W.M.

I am requesting notice of decision by the Building Department by email, thank you

Jeannette Bussler
PO Box 1902
Omak, Wa 98841

Resident at 116 E Hale Ave., Omak Wa.

Jake Dalton

From: Watson, Jonathan D CIV USARMY CENWS (US) <Jonathan.D.Watson@usace.army.mil>
Sent: Wednesday, July 3, 2019 8:20 AM
To: Jake Dalton
Subject: Duplex at 780 E. Hale Street

Importance: High

To whom it may concern

I would like to request that a duplex that's being planned for 780 E. Hale Street (commercial property) in the Omak neighborhood be disapproved. Currently the property in question is in the planning state within a Single Family neighborhood. With another duplex being put up would increase traffic, increase burden on current utilities, and could decrease values on homes currently not being rented out within the neighborhood. With the addition of another duplex would consider the property a Commercial property and not with standards of a Single Family Neighborhood and should be disapproved.

I retired from the U.S. Navy in October 2012 and offered a job in Okanogan that I was happy to accept. I also while in the Navy worked part time as a Licensed Electrician (20 years) and General Contractor (8 years) in Virginia. When I first started looking for a place to stay in Omak back in January 2013. I did not know how hard it would be to be able to find a place that was not a run down rental, mobile home, manufactured, or a house that would really need a lot of attention. I also was looking for a place to stay that would not be hard for my wife to get what she wanted or needed (being that at present time has chosen not to drive). It was hard to find anything in a decent neighborhood that was not already full of homes needed major repairs or were converted to rentals. Most rentals that seemed decent seemed to have been reserved for subsidized and/or low income housing and would not even take an application from me.

Talking with other neighbors in the area, there are currently 4-5 Duplexes/Apartments that have come up and seems that they were possibly not approved and nothing been done to prevent this. As per the duplex that is behind my current resident. Since living at my current resident I have had numerous problems with the previous tenant(s) at 124 E. Hale Ave. The side of the duplex that is closest to my residence had been rented to an elderly lady. She had allowed her granddaughter to move in with her and her 1 child. This granddaughter had frequent parties when her grandmother was not around and would leave her 1 child at the time alone with no supervision. The Granddaughter had apparently also been known to solicit herself for services as she ended up pregnant with her second child. As with her second child she would leave the child home alone so she could meander with friends. During which time I had no idea who the owners of the duplex were at present time (Grahns Rentals). I had numerous run in's with the granddaughters friends when they would take shortcuts through my yard and frequently peek in through windows of my residence. These friends also figured my back yard was also a good place to park their cars for parties. Until the police and child protective services were called by the other tenant of the duplex before anything was done which ended up with an eviction of the tenant. As I understand the current duplex behind my residence was built illegally and only had to pay a fine to be approved.

I'm unaware how the current owner came to owning the land. Jerry Peterson acquired the property on 125 Grave Ave (Commercial Property) and split the land creating a second parcel 780 E. Hale, which Eric and Lana Judd now own. I had never seen the property up for sale and being the current owners are planning on renting (commercial property) the duplex they want to build. It's easy to say they'll manage the property but THEY DO NOT LIVE IN THIS NEIGHBORHOOD out of site out of mind and only being built for profit (commercial property). As for Single family Dwelling neighborhood (Low Density) and Duplex (Medium Density). With the property in question is it really zoned correctly for Medium Density Chapter 18.24 of Omak residential duplex district or Commercial use?

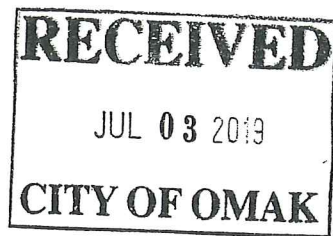
18.33.010 Purpose.

The CI-Commercial Industrial district is intended for those areas in which commercial and light manufacturing uses can be permitted or conditioned so as to be compatible with surrounding existing or planned residential uses. Permitted industrial uses within this district must take place primarily within enclosed structures and may not produce excessive noise, dust, smoke, traffic, fumes, light or glare, toxic substances and other adverse impacts. (Ord. 1325 § 1 (part), 1996).

July 3, 2019

TO: JAKE DALTON, BUILDING OFFICIAL/PERMIT ADMINISTRATOR
BOX 72
OMAK, WA 98841

FROM: MICHAEL RAYTON, LANDOWNER
111 E GRAPE / PO BOX 1589
OMAK, WA 98841



RE: RESIDENTIAL DUPLEX CONDITIONAL USE PERMIT
PARCEL # 8867000100 / LANA & ERIC JUDD
120 E HALE

MR DALTON,

As a landowner adjacent to the property in question, I am against the issuance of this permit.

I spoke briefly at a recent hearing for a similar project, the Pete Peterson, at which I neither supported nor opposed that motion to permit conversion of an existing, single-family residence to a duplex. I went on to say that any future, similar actions should be addressed through a general rezoning discussion at the city level for this neighborhood. This has not occurred. Construction of a new building, within a neighborhood zoned as single-family, ~~for the~~ intended as "duplex", does not fit within existing city-constants.

I oppose this action and urge you to deny this Conditional Use application.

Sincerely, Michael Rayton

Please notify me of your decision. (MR)

ATTACHMENT B – COPY OF HEARING RECORD



Agenda

Date: July 12, 2019 Time 3:00 PM
Omak City Hall 2 North Ash, Omak, WA. 98841

Hearing Examiner: Dale L. Crandall

Nature of Application: Conditional Use Permit CUP 02 - 2019
Description of Property Location: 120 East Hale Avenue
Name of Applicant: Lana and Eric Judd
Exhibit List:

Agenda
Land Use Application
Notice of Application /Complete Application
Notice of Public Hearing
List of property owners with/in 300 feet of proposal
Affidavit of Mailing
Affidavit of Property Posting
Arial Map
Staff Report

- A. Public Hearing called to order**
- B. Purpose of public hearing**
- C. Building Official present's staff report**
- D. Applicant and proponent(s) of project present testimony**
- E. Opponent(s) present testimony**
- F. Applicant may reply to any issue(s) raised by opponents**
- G. Examiner may ask for any other non-repetitive testimony**
- H. Public Hearing is closed**

All persons appearing before the Hearing Examiner shall conduct themselves with civility and courtesy to all persons involved in the hearing.

ORIGINAL DOES

CITY OF OMAK
LAND USE PERMIT APPLICATION COVER SHEET QUESTIONNAIRE

PROJECT TITLE: Judd Duplex FILE ID#: CUP-01-2019⁰²

This application is for (check all that are relevant):

- Long Plat
- Long Plat Alteration
- Short Plat
- Planned Unit Development
- Zoning Conditional Use Permit
- Zoning Variance
- Zoning Text Amendment
- Zoning Map Amendment

 ORIGINAL

ALSO USE JARPA APPLICATION FOR FLOOD PLAIN AND SHORELINE PROPOSALS

VESTING DATE OF APPLICATION: _____ BY _____

APPLICANT: ERIC & LARA JUDD
Mailing address: 8 COULEE HEIGHTS, OKANOGAN, WA 98840
Contact person: ERICK JUDD Phone #: 509.322.4446

ENGINEER/SURVEYOR OF RECORD: _____
Firm name: _____ Phone #: _____
Mailing address: _____

OWNER OF PROPERTY: ERIC & LARA JUDD
Mailing address: 8 COULEE HEIGHTS, OKANOGAN, WA 98840

GENERAL PROJECT INFORMATION:

This application is made pursuant to the following ordinance sections: OMC CHAP 18 SECTION 18.11.050

Description of the proposal: CHART 1 DWELLING, SINGLE FAMILY
CONDITIONAL USE PERMIT PROCESS TO OBTAIN
APPROVAL TO CONSTRUCT A DUPLEX IN A RESIDENTIAL SINGLE FAMILY
ZONE.

Description of the existing use(s) of the property: VACANT -
RESIDENTIAL SINGLE FAMILY ZONE

Description of the proposed use(s) of the property: CONSTRUCT NEW RESIDENTIAL
DUPLEX IN A SINGLE FAMILY ZONE THROUGH CUP PROCESS

Street address of the site: ~~780 HALE STREET~~ 120 EAST HALE AVE

Legal description of the subject property: _____
LOT 1 J PETERSON SHORT PLAT OMAK

Current land use designation for the subject property:
Comprehensive Plan: MEDIUM DENSITY RESIDENTIAL
Shoreline Environment: N/A
Flood Plain Zone: ZONE "C"
Zoning District: RS - RESIDENTIAL SINGLE FAMILY

Are there existing relevant permits or approvals held to the subject property? If yes, state the permit number and issuing agency: NO

Will the proposal effect the access to the property? If yes, please describe: YES, NEW DRIVEWAY
ACCESS SHALL BE REQUIRED

Will the proposal require work within an existing public right-of-way? If yes, please describe:

YES - WATER AND SEWER WILL CROSS HALE STREET

Will the proposal require additional or changes to the water and or sewer services? If yes, please describe:

YES - NEW CONNECTIONS FOR SEWER (1) & WATER (2)

Water service is provided by: CITY OF OMAHA

Sanitary sewer service is provided by: CITY OF OMAHA

Storm sewer service is provided by: CITY OF OMAHA

Is the property served by an irrigation district? If yes, note the name of the servicing district and describe any effect the proposal will have on the service: NO

This proposal requires by ordinance the following public notice:

- Publishing Notice of Application 1 times in the Chronicle.
- Publishing SEPA Threshold determination in the Chronicle
- Posting Notice of Application in 2 conspicuous places on the project site.
- Mailing of the notice to the latest recorded real property owners as shown by the records of the County Assessor within at least 300 hundred feet of the boundary of the property upon which the development is proposed.

PLEASE INCLUDE; SUBJECT PERMIT APPLICATION, REQUIRED PLANS AND SPECIFICATIONS, RELATED SEPA DOCUMENTS, LIST OF ADJACENT LANDOWNERS MAILING LIST, AND VESTING FEES.

I hereby apply for the above noted permit(s). By signing below I hereby certify that I am the above applicant and hereby state that the foregoing information, and all information attached hereto, as true to the best of my knowledge, with the understanding that inaccurate, incomplete and/or false information may cause delays and/or provide cause to void this application and any subsequent approvals. Further, I understand that in addition to the filing fees, I am responsible for reimbursement to the City for all costs incurred in processing this application, these costs may include, but are not limited to; postage, publishing, copies, peer review and special consultant review and inspection.

X [Signature] Applicant's Signature X 6/3/19 Date

Property Owner's Signature _____
(Mandatory if different from applicant) Date

***** OFFICE USE ONLY *****

Is the proposal categorically exempt from a threshold determination in accordance with the State Environmental Policy Act? (YES or (NO) Basis of exemption:
BASED ON HISTORICAL SEPA/DNS DOCUMENTATION PERTAINING TO THIS SITE; A SEPA CHECKLIST IS NOT REQUIRED

By: [Signature] Date: 6.3.19

Notice of Application / Complete Application

Parcel # 8867000100

Lana and Eric Judd

Residential Duplex Conditional Use permit

780 East Hale Avenue

Omak, WA 98841

Official Date of Notice: June 12, 2019

NOTICE IS HEREBY GIVEN that Lana and Eric Judd who are co-owners of the below described property filed an application for review and approval of a Conditional Use Permit for a Residential Duplex in a Residential Single Family Zoning District. The subject property is located at 120 East Hale Avenue Parcel #8867000100, located within Section 26, Township 34, and Range 26 East W. M.

The complete application, related drawings and documentation is available for inspection and/or copies may be obtained by purchase or electronically by request at the City of Omak Building Department, City Hall, during normal business hours.

A Public Hearing has been scheduled for July 12, 2019 at 3:00 PM in the Omak City Hall Council Chambers located at 2 North Ash Street.

Any person desiring to express their views on this proposal or attain party of record status and be notified of any subsequent record decisions on this application must notify in writing Jake Dalton, Building Official/Permit Administrator, Box 72, Omak, WA 98841 or build@omakcity.com Written comments on the application must be filed no later than 4:00 p.m. July 3, 2019.

Issued this date: June 12, 2019

Notice of Public Hearing

Parcel # 8867000100

Lana and Eric Judd

Residential Duplex Conditional Use permit

120 East Hale Avenue

Omak, WA 98841

NOTICE IS HEREBY GIVEN that Lana and Eric Judd who are the owner(s) of the below described property filed an application for review and approval of a Conditional Use Permit for a Residential Duplex in the Residential Single Family Zoning District. The subject property is located at 120 East Hale Avenue Parcel #8867000100, located within Section 26, Township 34, and Range 26 East W. M.

The City of Omak Hearing Examiner will conduct an open record public hearing on the application July 12, 2019 at 3:00 P.M. to be held in the City of Omak City Council Chambers located at 2 North Ash Street, Omak WA 98841.

The complete application, related drawings and documentation is available for inspection and/or copies may be obtained by purchase or electronically by request at the City of Omak Building Department, City Hall, during normal business hours.

William & Cynthia Gagne
105 E Fig
Omak, WA 98841

Marvin & Laura Gribble
618 N Kenwood
Omak, WA 98841

Jim Christie
PO Box 1425
104 E Hale
Omak, WA 98841

Carolyn Cleghorn
PO Box 81
116 E Grape
Omak, WA 98841

**Shelly Turner & Joshua
DeMarre**
624 N Kenwood
Omak, WA 98841

**Bryan Bernstein & Teresa
Myers**
108 E Hale
Omak, WA 98841

Greg & Jeannie Lein
PO Box 1245
120 E Grape
Omak, WA 98841

Gary & Erin Mundinger
PO Box 706
630 Kenwood
Omak, WA 98841

Michael Rayton
PO Box 1589
111 E Grape
Omak, WA 98841

Timothy Stidman
1001 Oleander St
201 Fig
Omak, WA 98841

Eugene & Sheena Hill
617 N Kenwood
Omak, WA 98841

Larry & Jeanette Bussler
PO Box 1902
116 E Hale
Omak, WA 98841

Greg & Anita Fisk
632 W First
210 E Grape
Omak, WA 98841

Lyle & Lorna Caudill
PO Box 1057
623 Kenwood
Omak, WA 98841

Vickie Halfhill
117 E Grape
Omak, WA 98841

Washington Blue Sky LLC
PO Box 4370
360 E Grape
Omak, WA 98841

Eric & Danielle Hansen
629 Kenwood
Omak, WA 98841

Grahn Rentals
90 Jaquish Rd
124 E Hale
Omak, WA 98841

Burnett Trust
2620 Elm Dr
365 Fig
Brier, WA 98036

John & Shawna Friebus
PO Box 1827
634 Jackpine
Omak, WA 98841

Jonathan Watson
PO Box 63
Omak, WA 98841

Raymond Tasker
361 E Grape
Omak, WA 98841

Tamera Gregg
616 N Juniper
Omak, WA 98841

Ernest & Sandra Walters
205 E Grape
Omak, WA 98841

Wayne & Stacie Nicholson
PO Box 85
365 E Grape
Omak, WA 98841

Richard Russell
69 Moomaw Rd
622 Juniper St
Omak, WA 98841

Aaron Steiner
108 E Grape
Omak, WA 98841

Marian Cox
612 N Kenwood
Omak, WA 98841

Andrea Villanueva
PO Box 722
626 N Juniper
Omak, WA 98841

J C Development One LLC
4416 219th PL SE
Bothell, WA 98021

Monte & Catherine Morgan
634 N Juniper
Omak, WA 98841

Laura Clark
105 E Hale
Omak, WA 98841

James & Linda Skinner
625 N Juniper
Omak, WA 98841



AFFIDAVIT OF MAILING

STATE OF WASHINGTON)
COUNTY OF OKANOGAN)

Patrick "Jake" Dalton, being first duly sworn on oath, deposes and says that he is the Building Official for the CITY OF OMAK, Washington, and that on the 10TH day of June 2019:

In accordance with Omak Municipal Code, Section 19.05.040(B)(b)(5) Public Notice, he did cause to be mailed the attached Notice of Complete Application for a proposed Conditional Use Permit to construct a Residential Duplex in a Single Family Zone located at 120 Hale Avenue East to the attached list of recipient's.

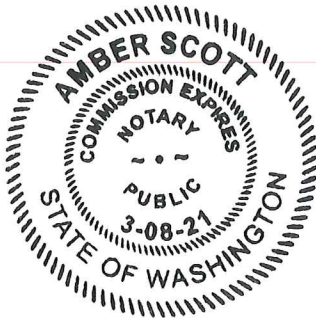
The attached is a true copy of said notice, list of recipients, and all notices were mailed as stated above.

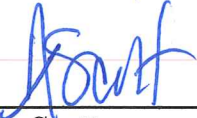
SIGNED:



Patrick "Jake" Dalton, Building Official

SUBSCRIBED AND SWORN TO before me this 19th day of June, 2019.





Amber Scott
NOTARY PUBLIC in and for the State of
Washington, residing at Omak.
My term expires 3/8/21

AFFIDAVIT OF POSTING

STATE OF WASHINGTON)
COUNTY OF OKANOGAN)

Lana Judd, being first duly sworn on oath, deposes and says that she is the owner of the following described property: 120 West Hale Avenue Parcel # 8867000100, Omak, Washington, and that on the 11th day of November, 2019:

In accordance with the Omak Municipal code, Section 19.05.040 Public Notice, she did post at the property located at 120 East Hale Avenue as required.

The attached is a true copy of said notice, and all notices were posted as stated above.


SIGNED:



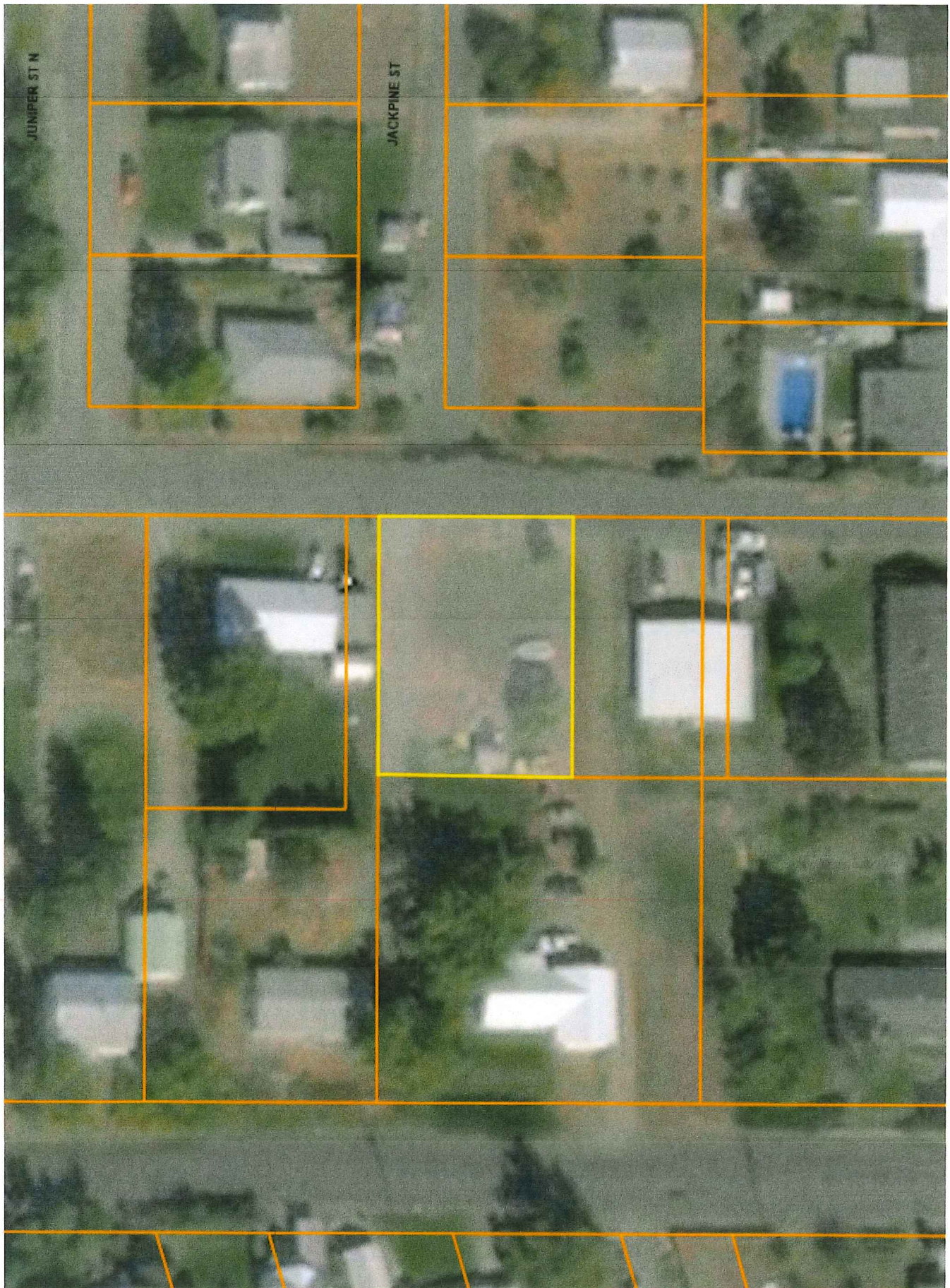
Lana Judd

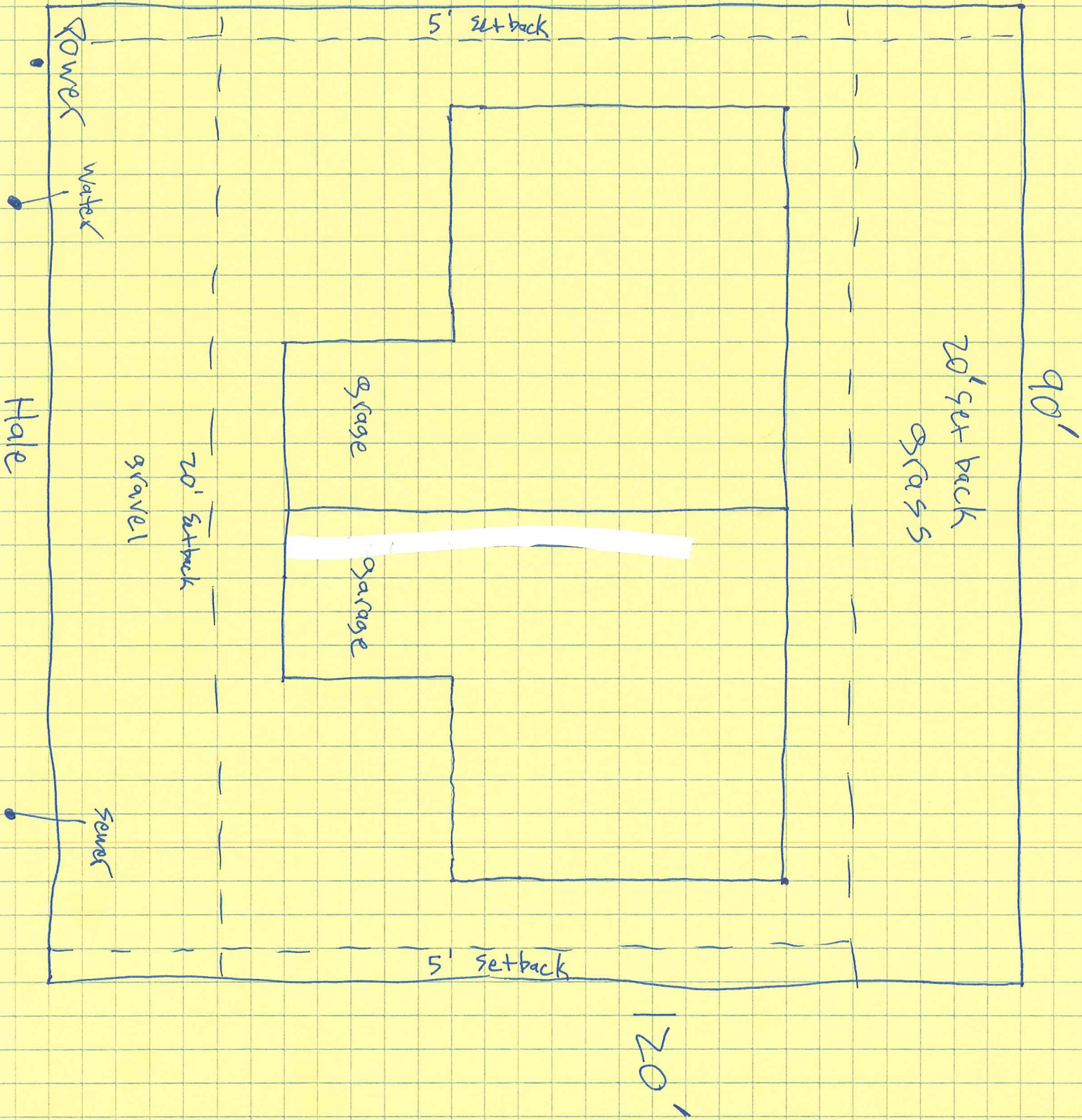
SUBSCRIBED AND SWORN TO before me this 11th Day of June, 2019.





Connie Thomas
NOTARY PUBLIC in and for the State of
Washington, residing at Omak.
My term expires 1/09/2020







OKANOGAN COUNTY WASHINGTON



TAXSIFTER

[SIMPLE SEARCH](#) [SALES SEARCH](#) [REETSIFTER](#) [COUNTY HOME PAGE](#) [CONTACT](#) [DISCLAIMER](#)

[PAYMENT CART\(0\)](#)

Larry D. Gilman
Okanogan County Assessor 149 3rd North Avenue, Room 202 Okanogan, WA 98840

[Assessor](#) [Treasurer](#) [Appraisal](#) [MapSifter](#)

Parcel

Parcel#: 8867000100 Owner Name: JUDD, ERICK & LANA
 DOR Code: 91 - Undeveloped - Land Address1:
 Situs: Address2: 8 COULEE HEIGHTS RD
 Map Number: 34-26-26 City, State: OKANOGAN WA
 Status: Zip: 98840
 Description: LOT 1 J PETERSON SHORT PLAT OMAK
 Comment: 3426260366 PLATTED TO 8867000100 & 200 AND ADDED 241 SQ FT PAY 2019 PER PETERSON SHORT PLAT SURVEY 3232663

2020 Market Value		2020 Taxable Value		2020 Assessment Data	
Land:	\$22,900	Land:	\$22,900	District:	910 - District 910
Improvements:	\$0	Improvements:	\$0	Current Use/DFL:	No
Permanent Crop:	\$0	Permanent Crop:	\$0		
Total	\$22,900	Total	\$22,900	Total Acres:	0.25000

Ownership

Owner's Name	Ownership %
JUDD, ERICK & LANA	100 %

Sales History

Sale Date	Sales Document	# Parcels	Excise #	Grantor	Grantee	Price
05/21/19	3234129	1	121695	PETERSON, JERRY	JUDD, ERICK & LANA	\$0
03/14/19	3232663	2		SHORT PLAT SURVEY		\$0

Building Permits

No Building Permits Available

Historical Valuation Info

Year	Billed Owner	Land	Impr.	PermCrop Value	Total	Exempt	Taxable
2020	JUDD, ERICK & LANA	\$22,900	\$0		\$22,900	\$0	\$22,900
2019	JUDD, ERICK & LANA	\$11,200	\$0		\$11,200	\$0	\$11,200

[View Taxes](#)

Parcel Comments

Date	Comment
03/19/19	3426260366 PLATTED TO 8867000100 & 200 AND ADDED 241 SQ FT PAY 2019 PER PETERSON SHORT PLAT SURVEY 3232663

STAFF REPORT

DATE: July 12, 2019

TO: City of Omak Hearings Examiner, Dale Crandall

FROM: Jake (Patrick) Dalton CBO, Building Official/Permit Administrator

RE: Conditional Use Permit Application For a Residential Duplex in a Single Family Zone

Background:

Lana and Eric Judd has filed an application for a Conditional Use permit. According to the application documents submitted, Mr. and Mrs. Judd are proposing to construct a Residential Duplex in a Single Family Zone. Omak Municipal Code (OMC) District Use Chart 1.0 indicates a Conditional Use Permit is required.

Location Information:

The location is 120 East Hale Avenue, Parcel # 8867000100 also known as Lot 1 J Peterson Short Plat Omak, Okanogan County.

Comprehensive Plan Designation:

The proposed conditional use is within an area designated as "Residential Single Family". According to the City of Omak Municipal Code, the purpose of the RS—Residential Single Unit district is to implement the "low density" designation described in the greater Omak comprehensive plan. This district is intended for existing and new areas characterized by primarily single-unit dwellings (Section 18.08.153). All such areas lie within the urban growth area as identified in the greater Omak area comprehensive plan. Areas within this district either already have access to city services, or such services are readily available due to the close proximity to the city limits.

Current Zoning:

The subject property is zoned "Residential Single Family" by Title 18 of the Omak Municipal Code.

Floodplains, Shorelines, SEPA, Critical Areas and Other Environmental Constraints:

The subject property is not located within the mapped floodplain protected zone and shoreline urban environment. The site is located in an Aquifer Recharge area with Moderate Recharge Potential. A SEPA checklist was submitted as required for a Conditional Use Permit review and the responsible official issued a "Determination of Non-Significance" on October 24, 2018 with an appeal/comment period ending on November 21, 2018.

(Note: The referenced SEPA document has been accepted for this CUP Land Use action.)

Reviewing Agencies:

The land use application form, SEPA checklist (Note: The referenced SEPA document has been accepted for this CUP Land Use action) and related information was circulated among appropriate agencies and City Staff beginning on October 24, 2018 with written comments from city staff, other agencies and the public will be included in the project file. To date, there have been no verbal objections to the proposal received.

Recommendation:

Staff recommends that the Hearing's Examiner approve the Conditional Use Permit application for a new Residential Duplex to be constructed in the Single Family Zone on the above mentioned property subject to the conditions outlined below:

(a) There shall be a total of four (4) onsite parking spaces, two per dwelling unit, clearly delineated and signed for each dwelling unit and maintained in perpetuity.

(b) There shall be a complete one-hour fire resistive separation between the dwelling units. A City of Omak Building Permit shall be required.

(c) Noncompliance or violation of these conditions shall be strictly enforced by in accordance with Section 18.52.070 of this title.

Findings of Fact:

The following Findings of Fact support the staff recommendation of approval.

1. That all requirements for processing a conditional use permit contained in Chapter 18.50 and Chapter 18.52.060 of the Omak Municipal Code were followed during the processing of this CUP and the applicants, heirs and assigns are required to adhere to the proceeding conditions and future regulations for further land use actions on development proposals.
2. That approval of the conditional use permit does not represent a granting of special privileges to the applicant.
3. That the proposed use is consistent with the Greater Omak Area Comprehensive Plan (as revised March 13, 2013).
4. That the public interest will not be harmed by the granting of the conditional use permit.
5. That a SEPA "DNS" was issued on October 24, 2018, with comment period ending on November 21, 2018. (Note: The referenced SEPA document has been accepted for this CUP Land Use action.)
6. That adequate city services are available to serve the proposed use.

Jake (Patrick) Dalton CBO
Building Official/Permit Administrator
July 12, 2019

ATTACHMENT C – HEARING EXAMINER FINDINGS

ORIGINALS

BEFORE THE HEARINGS EXAMINER

FOR THE CITY OF OMAK

In the Matter of)	Conditional Use Permit
)	No. CUP 02-2019
Conditional Use Application of)	
)	FINDINGS
Lana and Eric Judd)	

THIS MATTER came on for public hearing before Hearings Examiner Dale L. Crandall on July 12, 2019, at 3:00 p.m. at Omak City Hall.

AT HEARING, Building Official Dalton formally entered into the record the following documents:

- The Agenda
- The Permit Application filed by Eric & Lana Judd
- The Notice of Application/Complete Application - Published in the Omak Chronicle
- The Notice of Public Hearing – Published twice as in the Omak Chronicle
- List of Property Owners who received notice – Owners who are within a 300-foot radius of the property
- Affidavit of Mailing – Notarized
- Affidavit of Posting – Posted on the property
- Aerial View of the subject property
- A diagram of the proposed duplex and parking
- Okanogan County TAXSIFTER detailing information about the property
- The Staff Report
- Three comment letters - Jeannette Bussler, Jonathan Watson and Michael Rayton

Those in attendance for the hearing:

Patrick Dalton, Building Official	
Connie Thomas, City Clerk	
Eric & Lana Judd, Applicant	
Jonathan Watson, Citizen	Jeanunnette Bussler, Citizen
Danielle Hansen, Citizen	Arnie & Nita Graan, Citizen

The Applicant appeared and accepted conditions upon approval as recommended by Staff.

Nearby property owners Mr. Jonathan Watson, and Mrs. Danielle Hansen appeared, and expressed concerns about increasing the density of the neighborhood and decreasing property values. From the record and hearing, the following facts appear:

Background:

Lana and Eric Judd have filed an application for a Conditional Use permit. According to the application documents submitted, Mr. and Mrs. Judd are proposing to construct a Residential Duplex in a Single Family Zone. Omak Municipal Code (OMC) District Use Chart 1.0 indicates a Conditional Use Permit is required.

Location Information:

The location is 120 East Hale Avenue, Parcel# 8867000100 also known as Lot 1 J Peterson Short Plat Omak, Okanogan County.

Comprehensive Plan Designation:

The proposed conditional use is within an area designated as "Residential Single Family". According to the City of Omak Municipal Code, the purpose of the RS-Residential Single Unit district is to implement the "low density" designation described in the greater Omak comprehensive plan. This district is intended for existing and new areas characterized by primarily single-unit dwellings {Section 18.08.153}. All such areas lie within the urban growth area as identified in the greater Omak area comprehensive plan. Areas within this district either already have access to city services, or such services are readily available due to the close proximity to the city limits.

Current Zoning:

The subject property is zoned "Residential Single Family" by Title 18 of the Omak Municipal Code.

Floodplains, Shorelines, SEPA, Critical Areas and Other Environmental Constraints:

The subject property is not located within the mapped floodplain protected zone and shoreline urban Environment. The site is located in an Aquifer Recharge area with Moderate Recharge Potential. A SEPA checklist was submitted as required for a Conditional Use Permit review and the responsible official issued a "Determination of Non-Significance" on October 24, 2018 with an appeal/comment period ending on November 21, 2018.

(Note: The referenced SEPA document has been accepted for this CUP Land Use action.)

Reviewing Agencies:

The land use application form, SEPA checklist (Note: The referenced SEPA document has been accepted for this CUP Land Use action) and related information was circulated among appropriate agencies and City Staff beginning on October 24, 2018 with written comments from city staff, other agencies and the public will be included in the project file. To date, there have been no verbal objections to the proposal received.

FINDINGS

Based on the foregoing, the following findings are hereby made and entered, subject to the conditions of approval applied herein:

1. That all requirements for processing a conditional use permit contained in Chapter 18.50 and Chapter 18.52.060 of the Omak Municipal Code were followed during the processing of this CUP and the applicants, heirs and assigns are required to adhere to the proceeding conditions and future regulations for further land use actions on development proposals.
2. That approval of the conditional use permit does not represent a granting of special privileges to the applicant.

3. That the proposed use is consistent with the Greater Omak Area Comprehensive Plan (as revised March 13, 2013).
4. That the public interest will not be harmed by the granting of the conditional use permit.
5. That a SEPA "DNS" was issued on October 24, 2018, with comment period ending on November 21, 2018. (Note: The referenced SEPA document has been accepted for this CUP Land Use action.)
6. That adequate city services are available to serve the proposed use.
7. Installation of side and rear sight obscuring fencing will enhance privacy aesthetics of adjacent properties and diminish sight and sound effects of increased density of usage of the parcel.

ANALYSIS

The proposed use of a residential duplex will be consistent with the criteria set forth in Chapter 18.50.010, when subject to the conditions set forth below.

CONCLUSIONS

The record, hearing and findings in this matter mandate **APPROVAL** of the Conditional Use Permit for the operation of a new residential duplex on the above-mentioned properties **SUBJECT TO THE FOLLOWING CONDITIONS:**

- (a) There shall be a total of four (4) onsite parking spaces, two per dwelling unit, clearly delineated and signed for each dwelling unit and maintained in perpetuity.
- (b) There shall be a complete one-hour fire resistive separation between the dwelling units. A City of Omak Building Permit shall be required.
- (c) Noncompliance or violation of these conditions shall be strictly enforced by in accordance with Section 18.52.070 of this title.
- (d) Installation by applicant of a 6' tall wood or composite (not metal) full sight-obscuring fence erected along the side and rear boundaries according to Omak Municipal Code criteria for side and rear fencing.

THESE FINDINGS MADE AND ENTERED THIS 18th DAY OF JULY, 2019

Dale L. Crandall

Dale L. Crandall
Hearings Examiner

ATTACHMENT C – COPY OF FINDINGS FOR CUP 02-2019

BEFORE THE HEARINGS EXAMINER
FOR THE CITY OF OMAK

In the Matter of)	Conditional Use Permit
)	No. CUP 02-2019
Conditional Use Application of)	
)	FINDINGS
Lana and Eric Judd)	

THIS MATTER came on for public hearing before Hearings Examiner Dale L. Crandall on July 12, 2019, at 3:00 p.m. at Omak City Hall.

AT HEARING, Building Official Dalton formally entered into the record the following documents:

- The Agenda
- The Permit Application filed by Eric & Lana Judd
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Those in attendance for the hearing:

Patrick Dalton, Building Official	
Connie Thomas, City Clerk	
Eric & Lana Judd, Applicant	
Jonathan Watson, Citizen	Jeanunnette Bussler, Citizen
Danielle Hansen, Citizen	Arnie & Nita Graan, Citizen

The Applicant appeared and accepted conditions upon approval as recommended by Staff.

Nearby property owners Mr. Jonathan Watson, and Mrs. Danielle Hansen appeared, and expressed concerns about increasing the density of the neighborhood and decreasing property values. From the record and hearing, the following facts appear:

Background:

Lana and Eric Judd have filed an application for a Conditional Use permit. According to the application documents submitted, Mr. and Mrs. Judd are proposing to construct a Residential Duplex in a Single Family Zone. Omak Municipal Code (OMC) District Use Chart 1.0 indicates a Conditional Use Permit is required.

Location Information:

The location is 120 East Hale Avenue, Parcel# 8867000100 also known as Lot 1 J Peterson Short Plat Omak, Okanogan County.

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The proposed conditional use is within an area designated as "Residential Single Family". According to the City of Omak Municipal Code, the purpose of the RS-Residential Single Unit district is to implement the "low density" designation described in the greater Omak comprehensive plan. This district is intended for existing and new areas characterized by primarily single-unit dwellings {Section 18.08.153}. All such areas lie within the urban growth area as identified in the greater Omak area comprehensive plan. Areas within this district either already have access to city services, or such services are readily available due to the close proximity to the city limits.

Current Zoning:

The subject property is zoned "Residential Single Family" by Title 18 of the Omak Municipal Code.

Floodplains, Shorelines, SEPA, Critical Areas and Other Environmental Constraints:

The subject property is not located within the mapped floodplain protected zone and shoreline urban Environment. The site is located in an Aquifer Recharge area with Moderate Recharge Potential. A SEPA checklist was submitted as required for a Conditional Use Permit review and the responsible official issued a "Determination of Non-Significance" on October 24, 2018 with an appeal/comment period ending on November 21, 2018.

(Note: The referenced SEPA document has been accepted for this CUP Land Use action.)

Reviewing Agencies:

The land use application form, SEPA checklist (Note: The referenced SEPA document has been accepted for this CUP Land Use action) and related information was circulated among appropriate agencies and City Staff beginning on October 24, 2018 with written comments from city staff, other agencies and the public will be included in the project file. To date, there have been no verbal objections to the proposal received.

FINDINGS

Based on the foregoing, the following findings are hereby made and entered, subject to the conditions of approval applied herein:

1. That all requirements for processing a conditional use permit contained in Chapter 18.50 and Chapter 18.52.060 of the Omak Municipal Code were followed during the processing of this CUP and the applicants, heirs and assigns are required to adhere to the proceeding conditions and future regulations for further land use actions on development proposals.
2. That approval of the conditional use permit does not represent a granting of special privileges to the applicant.

3. That the proposed use is consistent with the Greater Omak Area Comprehensive Plan (as revised March 13, 2013).
4. That the public interest will not be harmed by the granting of the conditional use permit.
5. That a SEPA "DNS" was issued on October 24, 2018, with comment period ending on November 21, 2018. (Note: The referenced SEPA document has been accepted for this CUP Land Use action.)
6. That adequate city services are available to serve the proposed use.
7. Installation of side and rear sight obscuring fencing will enhance privacy aesthetics of adjacent properties and diminish sight and sound effects of increased density of usage of the parcel.

ANALYSIS

The proposed use of a residential duplex will be consistent with the criteria set forth in Chapter 18.50.010, when subject to the conditions set forth below.

CONCLUSIONS

The record, hearing and findings in this matter mandate **APPROVAL** of the Conditional Use Permit for the operation of a new residential duplex on the above-mentioned properties **SUBJECT TO THE FOLLOWING CONDITIONS:**

- (a) There shall be a total of four (4) onsite parking spaces, two per dwelling unit, clearly delineated and signed for each dwelling unit and maintained in perpetuity.
- (b) There shall be a complete one-hour fire resistive separation between the dwelling units. A City of Omak Building Permit shall be required.
- (c) Noncompliance or violation of these conditions shall be strictly enforced by in accordance with Section 18.52.070 of this title.
- (d) Installation by applicant of a 6' tall wood or composite (not metal) full sight-obscuring fence erected along the side and rear boundaries according to Omak Municipal Code criteria for side and rear fencing.

THESE FINDINGS MADE AND ENTERED THIS 18th DAY OF JULY, 2019

Dale L. Crandall

Dale L. Crandall
Hearings Examiner

19.05.070 Closed record decisions and appeals.

(a) Appeals of Decisions. Project permit applications shall be appealable as provided in Table 1—Permit Procedure Types I—IV.

(b) Consolidated Appeals.

(1) All appeals of project permit application decisions, other than an appeal of determination of significance (“DS”), shall be considered together in a consolidated appeal.

(2) Appeals of environmental determinations under SEPA, Chapter 2.60, shall proceed as provided in that chapter.

(c) Standing to Initiate Administrative Appeal.

(1) Limited to Parties of Record. Only parties of record may initiate an administrative appeal of a decision on a project permit application.

(2) Definition. The term “parties of record,” for the purposes of this section, shall mean:

(A) The applicant;

(B) Any person who testified at the open record public hearing on the application;

(C) Any person who submitted written comments concerning the application at the open record public hearing (excluding persons who have only signed petitions or mechanically produced form letters); and/or

(D) Any person who registers in writing at the open record public hearing or with the administrator their desire to be notified of any action on an application.

(d) Closed Record Decisions and Appeals.

(1) Type II, III or IV Project Permit Decisions or Recommendations. Appeals of the hearing body’s decision or recommendation on a Type II, III or IV project permit application shall be governed by the following:

(A) Standing. Only parties of record have standing to appeal the hearing body’s decision.

(B) Time to File. An appeal of the hearing body’s decision must be filed within fourteen calendar days following issuance of the hearing body’s written decision. Appeals may be delivered to the city clerk’s office by mail, personal delivery, email or by fax before five o’clock p.m. on the last business day of the appeal period.

(C) Computation of Time. For the purposes of computing the time for filing an appeal, the day the hearing body’s decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the city’s ordinances as a legal holiday; then it also is excluded and the filing must be completed on the next business day.

(D) Content of Appeal. Appeals shall be in writing, be accompanied by an appeal fee, and contain the following information:

- (i) Appellant's name, address and phone number;
- (ii) Appellant's statement describing his or her standing to appeal;
- (iii) Identification of the application which is the subject of the appeal;
- (iv) Appellant's statement of grounds for appeal and the facts upon which the appeal is based;
- (v) The relief sought, including the specific nature and extent; and
- (vi) A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.

(E) Effect. The timely filing of an appeal shall stay the effective date of the hearing body's decision until such time as the appeal is adjudicated by the council or is withdrawn.

(F) Notice of Appeal. The administrator shall provide public notice of the appeal to the appellant and to other parties of record.

(e) Procedure for Closed Record Decisions/Appeals.

(1) The following sections and subsections of this chapter shall apply to a closed record decision/appeal hearing: Sections 19.05.060(c), (d), (e), (f), (g)(1) through (g)(4), (g)(6), and (h).

(2) The closed record appeal/decision hearing shall be on the record before the hearing body. If the appeal is on a Type II, III, or IV permit, no new evidence may be presented.

(3) Appeals of Type I permits may be considered following an open record public hearing conducted in accordance with Section 19.05.060.

(f) Judicial Appeals.

(1) The city's final decision on a Type I—V permit application may be appealed by a party of record with standing to file a land use petition in Okanogan County superior court. Such petition must be filed within twenty-one days of issuance of the decision as provided in Chapter 36.70C RCW.

(g) Appeals to the Shorelines Hearings Board. Appeals to the Shorelines Hearings Board of a decision on a shoreline substantial development permit, shoreline variance, shoreline conditional use permit, or a decision on an appeal of an administrative action may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within twenty-one days of filing the final decision by the responsible local government with Ecology. (Ord. 1858 § 1 (Exh. A) (part), 2018; Ord. 1826 § 2, 2016; Ord. 1812 § 3 (Exh. C § 19.35.070), 2015).

ATTACHMENT D – COPY OF NOTICE OF DECISION

Connie Thomas

From: Connie Thomas
Sent: Friday, July 19, 2019 2:49 PM
To: Julie Bock
Cc: 'Jake'
Subject: LEGAL PUBLICATION

Julie,
Could you publish the below as a legal ad in your July 24, 2019 edition of the Chronicle. Thank you!

July 19, 2019

Notice of Decision

The City of Omak is hereby providing a notice of decision regarding the approval of a Conditional Use Permit (File No. CUP 02-2019) for construction of a duplex at 120 East Hale Avenue, Assessor's parcel # 8867000100, also known as Lot 1 of the J Peterson Short Plat, Omak, Okanogan County located within Section 26, T 34 N., R 26 EWM. The CUP is administered as Type III permit, pursuant 19.05 Table 1 OMC. Approval of CUP 02-2019 was granted on July 18, 2019. Appeals by parties with standing must file a written appeal with the Omak City Clerk in compliance with the requirements of 19.05.070 OMC within 14 days of issuance of the notice of decision (no later than 5pm on August 1, 2019). For more information call Jake Dalton, Omak Building Official at (509) 826-1170.

Connie Thomas, CMC
City Clerk
clerk@omakcity.com
509-826-1170

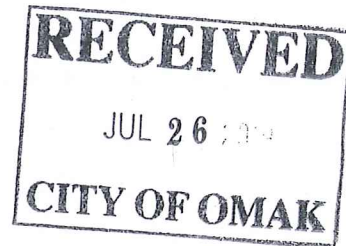
Public Records Disclosure Notice

*Messages sent to and from this email address may be subject to the Washington State Public Records Act
RCW 42.56*



ATTACHMENT E – WRITTEN APPEAL

APPEAL for CUP-2-2019



(i) Jonathan Watson, 611 Kenwood Street, Omak, WA, 98841, (757)289-1448

(ii) I feel there's justification to appeal the decision for an additional duplex to be built at 120E. Hale Ave as well as the possible future decision of turning the neighborhood into Residential-Duplex zone from what is currently Single Family zone.

(iii) Conditional use permit: CUP-02-2019

(iv) During the hearing on 12 July, 2019 at 3:00pm: I had brought to the attention of the board about the property in question would be most likely become a commercial property and rental only. The previous project from the same family "Peterson duplex", 125 Grape Ave, Omak WA. CUP-01-2018 (Commercial - Convert SFD into residential duplex). As per okanoganwa.taxesifter.com is a commercial property an inappropriate for a neighborhood designated as Single-Family! The current owners, daughter of Jerry Peterson wants to build a duplex (future Commercial Property) on the empty lot. As per Chapter 18.33 CI-Commercial Industrial District would make the property non-compatible with surrounding existing or planned residential use (Single Family Neighborhood). Also as per stated by Mr. Dalton (Building Official) that he knew of two duplex's in the neighborhood and there may be others. As well Mr. Dalton had said "the Omak Planning Commission has discussed in depth the zone of the area to comment on changing the zoning to Residential-Duplex". I feel that there was no regulation or any policy enforced on current Duplex's in the neighborhood (not properly zoned). These duplexes were not addressed accordingly but ignored and is not consistent with the public welfare of the zoned neighborhood in question and rezoning to Residential-Duplex is to just another way to ignore and hide the problem. There are numerous seniors in the neighborhood that do not have access to internet or a way to move around and the city should change policy on how to contact these people. Another Duplex's would create more congestion as well as bring properties values down if the neighborhood also gets rezoned Residential-Duplex.

I am unaware and cannot find any information in regards to when the neighborhood in question was ever zoned for Duplex's. Duplex's as explained by Mr. Dalton "have been popping up and may be others" is saying the city is unaware of what's happening in the currently single family zoned neighborhood and has done nothing to stop this practice without proper permits.

(v) No duplex be placed on the property, Single family dwelling on a single family zoned parcel as per current zoning only be built. Other properties that are residential duplexes, that other owners are not living at but renting be registered as "COMMERCIAL".

(vi) I am unaware and cannot find any information in regards to when the neighborhood in question was ever zoned for Duplex's but allowed. I feel the contents are true and need to be addressed and that the conditional use permit CUP 02-2019 be terminated.

A handwritten signature in black ink, appearing to read "John D. Watson".

V/R Jonathan D Watson (USN Retired)

ATTACHMENT F – COPY OF NOTICE & NOTICE OF THE CLOSED RECORD APPEAL HEARING

Public Notice

Closed Record Appeal Hearing

NOTICE IS HEREBY GIVEN that the Omak City Council will hold a closed record hearing at 7:00 pm on August 19, 2019 at Omak City Hall to consider an appeal of the Hearing Examiner decision for Conditional Use Permit **CUP 02-2019**. The CUP was approved by the Omak Hearings Examiner and issued to Eric and Lana Judd for the construction of a Residential Duplex in a Residential Single Family Zone. The appeals applicant is appealing the decision to allow the duplex to be constructed. The Council will consider the appeal and make a decision based on the existing record with no new public testimony to be taken.

All interested parties are invited to attend. Those requiring assistance are requested to contact City Hall a minimum of 24 hours prior to the scheduled hearing to notify the City of the type of assistance required. Persons wishing to view project information may contact Omak City Hall, 2 North Ash Street between the hours of 8:00 am until 5:00 pm Monday thru Friday. For further information contact Connie Thomas, City Clerk at 509.826.1170.

MEMORANDUM

To: Omak City Council
Cindy Gagné, Mayor

From: Ken Mears
Public Works Director

Date: August 19th, 2019

Subject: **Resolution 57-2019** Accepting WSDOT Grant Agreement for the Omak Airport Project.

The Attached Resolution **57-2019, A RESOLUTION OF THE OMAK CITY COUNCIL ACCEPTING WASHINGTON STATE DEPARTMENT OF TRANSPORTATION GRANT AWARD FOR IMPROVEMENTS TO THE OMAK MUNICIPAL AIRPORT**; is forwarded for your consideration.

The Washington State Department of Transportation has awarded the City of Omak a 5% Grant for the Omak Municipal Airport Project with a grant maximum total of \$3.824.50

City Council guaranteed the grant match from Resolution 40-2019 fulfilling the Grant contributions from FAA construction grant.

This Resolution is to accept the Grant and sign the agreement GCB 3229.

I support this Resolution and urge its Adoption.

RESOLUTION NO. 57-2019

**A RESOLUTION OF THE OMAK CITY COUNCIL ACCEPTING WASHINGTON
STATE DEPARTMENT OF TRANSPORTATION GRANT AWARD FOR
IMPROVEMENTS TO THE OMAK MUNICIPAL AIRPORT**

WHEREAS, the City has been awarded a grant from the Washington State Department of Transportation 5% of the cost of improvements for Taxiways and Apron Areas Pavement Maintenance Design Phase for a total grant award amount of \$3,824.50; and

WHEREAS, matching funds for this project have been pledged by Resolution 40-2019; and

WHEREAS, the City has received the final Grant Award document from the Washington State Department of Transportation for the Taxiways and Apron Areas Pavement Maintenance Design Phase, grant agreement GCB 3229.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Omak that the Grant agreement between the City of Omak and the Washington State Department of Transportation, Aviation Division, a copy of which is attached hereto as Exhibit "A" is hereby accepted and The Mayor is authorized and directed to execute the same on behalf of the City.

PASSED AND APPROVED this _____ day of _____, 2019.

SIGNED:

Cindy Gagné, Mayor

ATTEST:

Amber Scott, Deputy Clerk

APPROVED AS TO FORM:

Michael Howe, City Attorney



Washington State
Department of Transportation

EXHIBIT A

Aviation Division
7702 Terminal St SW
Tumwater, WA 98501
360-709-8015 / FAX: 360-709-8009
Toll Free: 1-800-552-0666
TTY: 1-800-833-6388
www.wsdot.wa.gov

August 5, 2019

The Honorable Cindy Gagne
Mayor
City of Omak
P.O. Box 72
Omak, Washington 98841

Re: Airport Aid Grant Offer GCB 3229 / Omak Municipal Airport / \$3,824.50

Dear Mayor Gagne:

Each year Washington State Department of Transportation (WSDOT) Aviation's Airport Aid Program provides crucial financial assistance to many of Washington State's public use airports to address pavement, safety, planning, maintenance, runway safety and security needs. We would like to take this opportunity to congratulate the City of Omak (herein called the "Sponsor") on your Airport Aid grant award.

WHEREAS, the Sponsor has submitted to WSDOT Aviation an Airport Aid Application (herein called the "Application") dated May 10, 2019, for a grant of state funds for a project at or associated with Omak Municipal Airport (herein called the "Airport") which Application, as approved by WSDOT Aviation, is hereby incorporated herein and made a part hereof; and

WHEREAS, WSDOT Aviation has approved a project for the Airport (herein called the "Project") consisting of the following:

- Taxiways and Apron Areas Pavement Maintenance - Design Phase, including eligible items as of July 1, 2019; all as more particularly described in the Application.

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of RCW 47.68.090, *Aid to municipalities, Indian tribes, persons*, and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to Washington State and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, WSDOT Aviation, for and on behalf of the State of Washington, hereby offers and agrees to pay, as the state's share of the allowable costs incurred in accomplishing the Project, five (5) percent of all allowable Project costs.

Honorable Cindy Gagne
City of Omak
August 5, 2019
Page 2

This Offer is made on and subject to the following terms and conditions:

- 1) The maximum obligation of the State of Washington payable under this Offer shall be Three Thousand Eight Hundred Twenty-four Dollars and Fifty Cents (\$3,824.50).
- 2) The allowable costs of the project shall not include any costs determined by WSDOT Aviation to be ineligible.
- 3) Payment of the state's share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe.
- 4) The Sponsor shall carry out and complete the Project without undue delay and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the Application.
- 5) WSDOT Aviation reserves the right to amend or withdraw this Offer at any time prior to its acceptance by the Sponsor.
- 6) This offer shall expire and State of Washington shall not be obligated to pay any part of the costs of the Project unless this Offer has been accepted by the Sponsor on or before Friday, August 16, 2019, or such subsequent date as may be prescribed in writing by WSDOT Aviation.
- 7) The State of Washington shall not be responsible or liable for damage to property or injury which may arise from, or be incident to, compliance with the grant agreement.
- 8) WSDOT Aviation reserves the right to terminate the agreement at any time because of legal matters detrimental to the state or the local government, insufficient funds held by WSDOT Aviation to complete the Project, or by mutual consent between the City of Omak and WSDOT Aviation. WSDOT Aviation will be responsible only for the state's proportionate share of the actual Project costs incurred at the time of any such termination.

If you accept this allocation you will be required to supply WSDOT Aviation with monthly copies of billings and costs for this Project. Failure to supply these copies may slow down and possibly jeopardize your reimbursement. WSDOT Aviation must be able to review your records on this Project at any time for future audit purposes.

WSDOT Aviation expects the project to be completed by the date indicated on the submitted project schedule. Any modifications to the schedule will need to be submitted to WSDOT Aviation with an explanation and schedule revision. All modifications must be approved by WSDOT Aviation in writing prior to making any changes. The Washington State Legislature has appropriated funding for WSDOT's Airport Aid Program for the 2019 – 2021 biennium ending on June 30, 2021. Any airport's failure to complete a project in a timely manner potentially affects funding of the entire Washington State aviation system.


Honorable Cindy Gagne
City of Omak
August 5, 2019
Page 3

The airport must remain open for the expected life of Twenty (20) years, otherwise 100% of the grant funding must be returned within Thirty (30) days of closure, sale or discontinuance of service.

The Sponsor's acceptance of this Offer and ratification and adoption of the Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereafter provided, and this Offer and Acceptance shall comprise an agreement with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. If you accept this grant offer, subject to the conditions stated, **please complete the following steps:**

- **Have an official authorized by the Sponsor (a) sign the attached Grant Agreement (do not fill in the execution date on the first page) and (b) sign this Grant Offer Letter.**
- **You may email electronically signed pdf documents to johnsel@wsdot.wa.gov or return a wet signature via mail to WSDOT Aviation, 7702 Terminal Street SW, Tumwater, WA 98501-7264 (Note: WSDOT Aviation will return electronically signed copies for your records).**

Sincerely,



Eric L. Johnson
Construction and Grants Program Manager

Encl: Copy of Airport Aid Grant Offer
Three Grant Agreements

Cc: Governor Jay Inslee
Congressman Dan Newhouse
Senator Shelly Short
Representative Jacquelin Maycumber
Representative Joel Kretz

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Application and incorporated materials referred to in the foregoing Offer; and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Application.

DATE

SIGNATURE



<h2 style="margin: 0;">Grant Agreement</h2> <p style="margin: 0;">Washington Airport Aid Program</p>	Public Entity and Address
	City of Omak PO Box 72 Omak, WA 98841
	Airport Name
Omak Municipal	Maximum State Grant Obligation
\$ \$3,824.50	

THIS AGREEMENT, made and entered into this _____ day of August, 2019, between the STATE OF WASHINGTON, acting by and through the Aviation Division, Department of Transportation, (hereinafter the "STATE") and the above named Public Entity, (hereinafter the "PUBLIC ENTITY").

WHEREAS, the Public Entity has submitted to the State for Subvention of the Washington Airport Aid Program for (acquisition and/or development) of the Omak Municipal Airport together with the plans and specifications for such project, which project application has been approved by the State and is hereby incorporated herein and made a part hereof;

WHEREAS, the State has approved a project for development of the airport consisting of the following described airport development:

Project Number	Detailed Breakdown By Items
OMA-01-19	\$3,824.50 - Taxiways and Apron Areas Pavement Maintenance - Design Phase, including eligible items as of July 1, 2019.

NOW, THEREFORE, pursuant to and for the purpose of carrying out the provisions of the State Act, and in consideration of the (a) Public Entity's adoption and ratification of the representations and assurances contained in said project application, and its acceptance of this offer as hereinafter provided, and (b) the benefits to accrue to the State of Washington and the public from the accomplishment of the project and the operation and maintenance of the airport as herein provided, the State hereby agrees to pay as its allowable costs incurred in accomplishing the project.

The terms and conditions of this grant agreement are as follows:

The maximum obligation of the State payable under this grant shall be 3,824.5.

The Public Entity shall:

1. Deposit in an Aviation Fund for said airport, at least \$ 3,824.5 to match the State's participation in said project.
2. Carry out and complete the project in accordance with the plans and specifications and property map, incorporated herein, as they may be revised or modified with the approval of the state.
3. In connection with the acquisition of real property for the project, the Public Entity shall secure at least two written appraisals by competent, experienced appraisers who are members of a recognized professional appraisal organization and shall not pay in excess of the highest appraisal without the written consent of the state except as otherwise directed by a court of competent jurisdiction after contested trial and judgment not resulting from an agreement between the parties.

4. No state funds will be paid to the Public Entity in any case until it certifies in writing that it has Aviation Funds for said airport in an amount equal to the state's participation, or the amount designated in paragraph (1) above, which deposited amount will be used solely for the purpose in question.
5. The Public Entity agrees to hold said airport open to the flying public during the useful life of the facilities developed under this project; that no exclusive operating or use agreements shall be granted to any person, company, or corporation; that failure to abide by such agreement shall automatically obligate the immediate and full return of all State of Washington money expended in behalf of the project to the State of Washington with reasonable interest. Further, the Public Entity agrees to keep the facility open during the useful life of the project or for a stated term of years, whichever is longer, as determined by the Aviation Division.
6. The Public Entity will make no charge to the State or its agencies for a limited, but reasonable, amount of state agency use or for state activity in search and rescue. And, further, RCW 47.68 is followed to best serve the public.

The allowable cost of the project shall not include any cost determined by the State to be ineligible for consideration as to allowability.

The State reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Public Entity.

This offer shall expire and the State shall not be obligated to pay any part of the costs of the project unless this agreement has been accepted by the Public Entity on such subsequent date as are prescribed in writing by the State, in the approval letter for each project.

Except for those projects receiving both state and federal aid, the following inspection scheduled, and reporting system will be required:

- A. Inspection Schedule and Reporting system will vary for each project. Basically, the inspection schedule will be placed on a quarterly basis. On project taking less than three (3) months, the Public Entity will be required to make reports and be inspected on the following schedule:
 1. Public Entity project commencement date.
 2. Public Entity report project completion date and request final inspection.
 3. State will make final inspection and sign-off project as completed.
 4. State will arrange for audit of account in accordance with regularly scheduled audit program.
- B. Projects taking over three (3) months will be set up on a quarterly inspection and progress report system. The Public Entity will be required to make reports and be inspected on the following schedule:
 1. Report project commencement date.
 2. Public Entity will make a three (3) months progress report. This will be a letter report giving percentage of project completed, fund expenditures to date, and short narrative of the project progress, problems encountered and plans for project completion.
 3. State will make quarterly project inspections and prepare the report of inspection. A copy of the report will be delivered to the Public Entity.
 4. Public Entity will make report of completion of project and request final inspection.
 5. State will make final inspection and sign-off as completed.
 6. State will arrange for audit of account in accordance with regularly scheduled audit program.

It should be made clear that a violation of any of the terms of the Grant Agreement will leave the State free to choose among one or more of the following remedies:

- A. The withholding of any future airport aid, and/or
- B. The return of grant funds awarded as an action for specific performance, and/or
- C. Enforcement of the commitment made by the applicant.

The Public Entity's acceptance of this offer and ratification and adoption of the project application incorporated herein shall be evidenced by execution of this instrument by the Public Entity, as hereafter provided, and said offer and acceptance shall comprise allocation agreement, constituting the obligation and rights of the State and the Public Entity with respect to the accomplishment of the project and the operation and maintenance of the airport. Such allocation agreement shall become effective upon the Public Entity's acceptance of this offer and shall remain in full force and effect throughout the useful life of the facilities developed under the project but in any event not to exceed twenty (20) years from the date of acceptance.

By: _____
Director, Aviation Division

The City of Omak does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the project application and incorporated materials referred to in the foregoing offer and does hereby accept said offer and by such acceptance agrees to all of the terms and conditions thereof.

Executed this _____ day of August, 2019.

Name of Public Entity: City of Omak

By: _____

Title: Mayor

MEMORANDUM

To: Omak City Council
Cindy Gagné, Mayor

From: Ken Mears, Public Works Director

Date: August 19th, 2019

Subject: **Resolution No. 58-2019** Accepting an Agreement with Oxarc, Inc.

The attached **Resolution 58-2019, Quotation and Product Supply Agreement with Oxarc, Inc.**, is forwarded for your consideration.

Oxarc, Inc. has been supplying the Chlorine Gas for the City of Omak for the Water and Waste Water Departments for a long time. The liability and difficulty of supplying the Chlorine gas have forced Oxarc, Inc. to raise the pricing substantially in 2019. After multiple discussions with Oxarc, Inc. they will continue to provide the Chlorine Gas at a lowered cost if the City would sign the attached agreement confirming the City's future demands.

This agreement would be for three years and Oxarc, Inc. is the only supplier in our region that provides the Chlorine gases for the City at this point.

I support this Resolution and request Council approval.

RESOLUTION NO. 58-2019

QUOTATION AND PRODUCT SUPPLY AGREEMENT WITH OXARC, INC.

THE CITY COUNCIL OF THE CITY OF OMAK, Washington do hereby resolve that the Quotation and Product Supply Agreement attached hereto between the **CITY OF OMAK**, a municipal corporation, and **OXARC, INC.**, a supplier of Industrial, Medical and specialty gases, specifically Chlorine gas, is hereby approved. The Mayor is hereby authorized and directed to execute the same for and on behalf of the CITY, and the Deputy Clerk is authorized and directed to attest her signature.

INTRODUCED and passed this ____ day of _____ 2019.

SIGNED:

Cindy Gagné, Mayor

ATTEST:

Amber Scott, Deputy Clerk

APPROVED AS TO FORM:

Michael Howe, City Attorney



Account #66254

QUOTATION AND PRODUCT SUPPLY AGREEMENT INDUSTRIAL, MEDICAL, AND SPECIALTY GASES

OXARC, Inc., ("Seller"), hereby agrees to sell CITY OF OMAK ("Buyer")
with a location at PO BOX 72 OMAK, WA 98841 ("Buyers Location")

hereby agrees to purchase, on the terms and conditions hereinafter set forth ("Agreement"), Buyer's total present and future requirements, in gaseous and liquid form, including cylinders ("Products") for use at Buyer's Location(s), and if the operations at Buyer's Location(s) are conducted at expanded or new location(s), then at such expanded or new location(s). Such requirements of Product will be supplied by Seller in liquid or gaseous form, whichever is appropriate, utilizing a system which may be comprised of storage units, piping, controls, devices, cylinders and/or instrumentation ("Supply System"). Seller and Buyer may be collectively referred to as "Parties" and individually as a "Party".

1. The Products, prices f.o.b. Seller's dock, and points of delivery plus delivery charges, cylinder rental and any sales, excise taxes, compliance charges now or hereafter imposed by reason of the sale or delivery of the Products to Buyer shall be listed on the reverse side of this Agreement.
2. Buyer shall pay to Seller rent for the use of each cylinder in Buyer's possession on the end of each month at Seller's established cylinder rental rates. Buyer shall inspect each cylinder at the time it is delivered and by acceptance of the cylinder acknowledges that it is in good and serviceable condition. Buyer shall pay to Seller, upon demand, at Seller's established valuations and rates, for loss of or damage to any cylinders or fittings resulting from any cause after delivery thereof to Buyer until it is returned to Seller. Title to cylinders delivered to buyer hereunder shall remain in Seller at all times and such cylinders shall be fitted solely with products sold and delivered to Buyer by Seller. It is understood that cylinders shall be accounted for by type and quantity rather than by serial number and Buyer hereby agrees that all cylinders delivered hereunder shall be deemed to be in its possession exempt to the extent Buyer has in his possession delivery tickets signed by an authorized agent of Seller showing redelivery thereof to Seller. Buyer shall promptly return each cylinder to Seller when it is empty and in any event upon termination of this Agreement. Buyer owned cylinders are also included in the Agreement for filling and pricing.
3. Seller shall submit invoices to Buyer for Products sold and delivered, delivery charges, cylinder rent and sales or excise taxes, compliance charges and such invoices shall be payable upon presentment without discount. Terms of delivery shall be F.O.B. Seller's location. Terms of payment will be net 30 days following date of invoice. A service charge of 1.75% per month will be charged on any payment not made within 30 days of the invoice date.
4. Seller shall have the right to increase or decrease the price per cubic foot of Products sold and delivered to Buyer hereunder to reflect any increase or decrease in its costs and expenses, but Seller shall give Buyer at least fifteen (15) days prior written notice of any price increase. If within fifteen (15) days after the giving of such written notice of a price increase Buyer shall furnish evidence satisfactory to Seller that product in like quantity and quality can be purchased by Buyer at prices lower than such increased prices, and if within fifteen (15) days after the furnishing of such evidence Seller does not agree to meet such lower price or rescind the notice of revised price, buyer may, within thirty (30) days thereafter, terminate this Agreement by giving Seller at least ten (10) days prior written notice of such termination. If Seller agrees to match a competitive bid, the Agreement will automatically renew for the Initial Term of the Agreement.
5. Term and Termination / Default and Seller's Remedies
 - (a.) This Agreement shall be effective as of the date hereof. The initial term of this Agreement shall be three (3) years ("Initial Term") from the date hereof, or the date of first delivery of Product, whichever is later and will continue in effect for an additional term until either party gives not less than twelve (12) months prior written notice, from the anniversary date.
 - (b.) Either party may terminate this Agreement as of the expiration of the Initial Term or the expiration of any anniversary date thereafter by giving not less than twelve (12) months prior written notice to the other party.
 - (c.) Upon a default of this Agreement by Buyer, Seller, in its sole discretion and after first providing Buyer notice of default and allowing Buyer ten (10) days to cure any default, may immediately terminate this Agreement in whole or in part. The following shall constitute an event of material default by Buyer:
 - (i) Fails to make payment in accordance with this Agreement, or
 - (ii) becomes insolvent or makes a general assignment for the benefit of creditors, or
 - (iii) enters into or files a petition or proceeding seeking an order for relief under the bankruptcy laws of its respective jurisdiction and such petition or proceeding is not dismissed within sixty (60) days of the filing date, or
 - (iv) Buyer breaches any other provisions of the Agreement.
 - (d.) Upon default by Buyer or termination of this Agreement, the following shall occur:
 - (i) All amounts currently owed to Seller will immediately become due and payable, and
 - (ii) Buyer shall also become responsible for immediate payment of all amounts anticipated by the complete terms of the Agreement, and
 - (iii) Seller shall immediately cease all delivery of Products to Buyer, and
 - (iv) Seller may exercise any and all rights and remedies available to it under law.
6. Seller shall not be responsible for its failure to deliver Products to Buyer hereunder if such failure is occasioned by acts or events which are not reasonably within the control of Seller.
7. Buyer hereby agrees to indemnify and hold Seller harmless of and from all loss, cost, expense or damage with respect to any injury to person or property of any kind or character occasioned by the use, operation, handling or transportation of the Products and cylinders after delivery of possession thereof to Buyer.
8. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective heirs, personal representatives, successors and assigns, but in no event shall Buyer have the right to assign its interest in this Agreement to any other person without the prior written consent of Seller.
9. Failure by Seller to insist upon strict compliance to the terms and conditions of this Agreement is not a waiver of any such term or condition. Such waiver shall not be construed as a wavier of any other term or condition, nor shall it be construed as a waiver of any subsequent breach of the same term or condition.
10. This Agreement may be executed by facsimile and delivered in one or more counterparts, each of which shall be deemed to be an original and all of which taken together, shall be deemed to be one Agreement.
11. This Agreement and its formation, operation and performance and the terms of all sales of Product hereunder, shall be governed, construed, performed and enforced in accordance within the laws of the State of Washington without regard to its conflict of laws principles. Seller and Purchaser irrevocably agree that the state and federal courts of Washington shall have exclusive jurisdiction to hear and determine any suit action or proceedings which may arise out of or in connection with this Agreement and, for such purposes, Seller and Purchaser irrevocably submit to the jurisdiction of those courts. Venue shall be Spokane County.

IN WITNESS WHEREOF, the Parties have hereunto set their hands the day and year first above written.

(Print Name & Title)

Shay Wolf

(Submitted by)

(Signature)

(Accepted By & Title)

(Date)

(Date)

PRODUCT INFORMATION

Product	P/N	Contents/Description	U/M	Price
	CL150	CHLORINE 150 LB	EA	\$644.00

Additional Comments:

Customer is responsible for all fees and permits.

Buyer's Initials _____ Seller's Initials _____

Date _____ Date _____

MEMORANDUM

To: Cindy Gagné, Mayor

From: Ken Mears, Public Works Director

Date: August 19th, 2019

Subject: **Resolution No. 59-2019** Approving the Contract with Cummins Sales and Service Backup Generator Repair.

The Attached Resolution: **59-2019, A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING THE CONTRACT WITH CUMMINS SALES AND SERVICE FOR WASTEWATER TREATMENT PLANT BACK UP GENERATOR REPAIR,** is forwarded for your consideration.

June of 2016, Cummins performed an emergency repair on the waste water backup generator. During the emergency repair, it was discovered that some of the components would need to be completely overhauled in the next few years to continue the reliability of the backup generator and what it provides during power outages. This resolution is to complete the required overhaul. This work is funded in the 2019 budget. The contract has a "not to exceed" price of \$39,988.20.

We are requesting approval of this resolution.

RESOLUTION NO. 59-2019

A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING THE CONTRACT WITH CUMMINS SALES AND SERVICE FOR WASTEWATER TREATMENT PLANT BACK UP GENERATOR REPAIR

WHEREAS, the Wastewater Treatment Plant relies on an onsite generator for emergency backup power; and

WHEREAS, Cummins Sales and Service is the factory recognized provider for sales and service of the installed generator; and

WHEREAS, major work to the motor is required for the generators continued reliable operation; and

WHEREAS, the competitive bid process is not required in accordance with RCW 35.23.352.

NOW, THEREFORE, BE IT RESOLVED by the Omak City Council, that the Public Works Contract between the City of Omak and Cummins Sales and Service, a copy of which is attached hereto as **Exhibit "A"**, is hereby approved and that the Mayor is authorized to execute the same on behalf of the City of Omak.

PASSED BY THE CITY COUNCIL this ____ day of _____, 2019.

APPROVED:

Cindy Gagné, Mayor

ATTEST:

Amber Scott, Deputy Clerk

APPROVED AS TO FORM:

Michael D. Howe, City Attorney



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:
 Cummins Sales and Service
 Lockbox 138324 POB 398324
 San Francisco, CA 94139

SPOKANE WA BRANCH
 11134 W. WESTBOW BLVD
 SPOKANE, WA 99224-
 (509)455-4411

EXHIBIT A

INVOICE NO
ESTIMATE
REMIT TO: Lockbox 138324 POB 398324

BILL TO

CITY OF OMAK
 DO NOT MAIL
 OMAK, WA 98841-

OWNER

CITY OF OMAK
 PO BOX 72
 OMAK, WA 98841-
 JESUS ARCINIEGA - 509 826-2383

PAGE 1 OF 3

*** CHARGE ***

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
02-JUL-2019			KTA-1150G		ILI
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
269303		24-JUL-2018	31105348		500DFD466688-M00-W
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
134440					MAIN

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	LIST PRICE	UNIT PRICE	AMOUNT
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OSN/MSN/VIN 2769

COMPLAINT CUSTOMER REQUESTED ENGINE OVERHAUL.

ESN: 31105348
 CPL: 292
 BUILD DATE: 1971

CAUSE WE ARE THE OEM OF THIS ENGINE.
COVERAGE CUSTOMER REQUESTED
 CUSTOMER BILLABLE

6	0	4371769	KIT,LINER	CECO	350.52	350.52	2,103.12
6	0	3631245	KIT,ENGINE PISTON	CECO	813.19	681.51	4,089.06
6	0	3088298	RING,LINER SEAL	CECO	15.04	12.18	73.08
1	0	4376512	KIT,LOWER ENGINE GASKET	CECO	749.36	624.95	624.95
1	0	4352578	SET,UPPER ENGINE GASKET	CECO	1,112.53	932.40	932.40
12	0	205840	BEARING,CON ROD (STD)	CECO	53.27	45.18	542.16
1	0	AR12270	SET,MAIN BEARING (STD)	CECO	953.77	757.96	757.96
1	0	3801697RX	TURBO, HC5A	DRC	2,735.42	2,474.83	2,474.83
1	0	3801849D	TURBO,HC5A	CLEAN	750.00	750.00	750.00
-1	0	3801849D	TURBO,HC5A	DIRTY	750.00	750.00	750.00
20	0	773780	1 GAL PREM BLUE 15W40	P1-VALVOLINE	16.88	16.88	337.60
25	0	CC2835	ES COMP PG	FLG	23.04	22.00	550.00
1	0	204586	THERMOSTAT	CECO	110.44	92.30	92.30
2	0	S126	SCREW,HEXAGON HEAD CAP	CECO	4.13	3.47	6.94

Completion date : 28-Sep-2018 09:48AM. Estimate expires : 23-Aug-2018 09:47AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

AUTHORIZED BY (print name) _____ SIGNATURE _____ DATE _____

TERMS AND CONDITIONS

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") unless a previous written agreement with respect to the Goods and/or Services (as hereinafter defined) has been entered between the parties, in which event, such previous written agreement shall prevail. In the event of any inconsistency between this Agreement and any purchase order, terms and conditions or other document produced or delivered by Customer, the terms and conditions of this Agreement shall prevail.

1. SCOPE OF SERVICES; PERFORMANCE OF SERVICES. Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) ("Goods") and/or perform the maintenance and/or repair ("Services") on the equipment identified in the Quote and/or Invoice ("Equipment"), if applicable, in accordance with the specifications in the Quote and/or Invoice. No additional services or goods are included in this Agreement unless agreed upon by the parties in writing, or otherwise, as applicable.

2. CUSTOMER OBLIGATIONS. If necessary, Customer shall provide Cummins safe and free access to Customer's site and arrange for all related services and utilities necessary for Cummins to safely and freely perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to injury to facility occupants, customers, invitees, or any third party and/or property damage or work interruption arising out of the Services. If applicable, Customer shall make all necessary arrangements to address and mitigate the consequences of any electrical service interruption which might occur during the Services. Customer is responsible for operating and maintaining the Equipment in accordance with the owner's manual for the Equipment.

3. INVOICING AND PAYMENT. Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of Invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Goods and/or Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins.

4. TAXES; EXEMPTIONS. The Invoice includes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer under this Agreement. Customer must provide a valid tax exemption certificate or direct payment certificate prior to shipment of the Goods or performance of the Services, or such taxes will be included in the Invoice.

5. DELIVERY; TITLE AND RISK OF LOSS. Unless otherwise agreed in writing by the parties, any Goods supplied under this Agreement shall be delivered FOB Origin, freight prepaid to the first destination. If agreed, any charges for third party freight are subject to adjustment to reflect any change in price at time of shipment. Unless otherwise agreed to, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. All shipments are made within normal business hours, Monday through Friday. Unless otherwise agreed in writing by the parties, title and risk of loss for any Goods sold under this Agreement shall pass to Customer upon delivery of Goods by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

6. DELAYS. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes.

7. LIMITED WARRANTIES.

a. New Goods: New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement.

b. Cummins Exchange Components, Other Exchange Components, and Recon: Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.

c. HHP Exchange Engine: HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.

d. General Service Work: All Services shall be free from defects in workmanship (i) for power generation equipment (including engines in such equipment), for a period of ninety (90) days after completion of Services or 500 hours of operation, whichever occurs first; or (ii) for engines, for a period of ninety (90) days after completion of Services, 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period, (ii) Cummins receives written notice of the Warrantable Defect within thirty (30) days following discovery by Customer, and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New Goods supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such Goods.

e. Used Goods: Used Goods are sold "as is, where is" unless exception is made in writing between Cummins and Customer. Customer agrees to inspect all used Goods before completing the purchase.

f. THE REMEDIES PROVIDED IN THE LIMITED WARRANTIES AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

8. INDEMNIFICATION. Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services and/or Goods supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed, in whole or in part, by the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity, including any tenders for defense and indemnity by Cummins to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

9. LIMITATION OF LIABILITY. NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF GOODS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF GOODS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY IN SECTION 7 IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

10. GOVERNING LAW AND JURISDICTION. This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the court of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

11. ASSIGNMENT. This Agreement is binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

12. CANCELLATION. Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. Cummins may charge Customer a cancellation charge in accordance with current Cummins policy which is available upon request, in addition to the actual, non-recoverable costs incurred by Cummins.

13. REFUNDS/CREDITS. Goods ordered and delivered by Cummins under this Agreement are not returnable unless agreed to by Cummins. Cummins may, at its sole discretion, agree to accept Goods for return and provide credit where Goods are in new and saleable condition and presented with a copy of the original invoice. Credits for returns will be subject to up to a 15% handling/restocking charge and are limited to eligible items purchased from Cummins.

14. INTELLECTUAL PROPERTY. Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.

15. COMPLIANCE WITH LAWS. Customer shall comply with all laws applicable to its activities under this Agreement, including without limitation, any and all applicable national, provincial, and local export, anti-bribery, environmental, health, and safety laws and regulations in effect. Customer acknowledges that the Goods, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Goods or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

16. CONFIDENTIALITY. Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agent) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

17. MISCELLANEOUS. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement.



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:
 Cummins Sales and Service
 Lockbox 138324 POB 398324
 San Francisco, CA 94139

SPOKANE WA BRANCH
 11134 W. WESTBOW BLVD
 SPOKANE, WA 99224-
 (509)455-4411

INVOICE NO
ESTIMATE
REMIT TO: Lockbox 138324 POB 398324

BILL TO

CITY OF OMAK
 DO NOT MAIL
 OMAK, WA 98841-

OWNER

CITY OF OMAK
 PO BOX 72
 OMAK, WA 98841-
 JESUS ARCINIEGA - 509 826-2383

PAGE 2 OF 3

*** CHARGE ***

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
02-JUL-2019			KTA-1150G		ILI
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
269303		24-JUL-2018	31105348		500FDF466688-M00-W
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
134440					MAIN

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	LIST PRICE	UNIT PRICE	AMOUNT
OSN/MSN/VIN		2769						
2		0	S112	SCREW,HEXAGON HEAD CAP	CECO	2.10	1.70	3.40
2		0	S104	SCREW,HEXAGON HEAD CAP	CECO	3.95	3.46	6.92
1		0	3010595	SCREW,CAPTIVE WASHER CAP	CECO	4.01	3.51	3.51
4		0	3010597	SCREW,CAPTIVE WASHER CAP	CECO	6.29	5.26	21.04
1		0	69102	SCREW,HEXAGON HEAD CAP	CECO	19.33	16.22	16.22
6		0	3010510	SEAL,O RING	CECO	5.63	4.79	28.74
6		0	193736	SEAL,INJECTOR O RING	CECO	3.74	3.27	19.62
6		0	3347937	SEAL,O RING	CECO	3.33	2.73	16.38
1		0	4025310	PUMP,WATER	CECO	820.07	683.92	683.92
1		0	3016788	SEAL OIL	CECO	19.45	18.55	18.55
1		0	3200287	SEAL,KEYWAY	CECO	12.09	9.84	9.84
1		0	3016794	SEAL,OIL	CECO	68.23	56.07	56.07
2		0	FS1212	FWS PKG	FLG	19.37	16.99	33.98
2		0	LF670	LF PKG A	FLG	26.42	22.79	45.58
6		0	3007517	NOZZLE,PISTON COOLING	CECO	23.97	20.39	122.34
1		0	MISC SUPPLIES	MISC SUPPLES	P1-NSPARTC	1,000.00	1,000.00	1,000.00
1		0	MACHINE WORK	MACHINE WORK	P1-NSPART4	1,995.00	1,995.00	1,995.00
1		0	FREIGHT	FREIGHT	P1-FREIGHT	750.00	750.00	750.00

PARTS: 17,415.51
 PARTS COVERAGE CREDIT: 0.00CR
 TOTAL PARTS: 17,415.51
 SURCHARGE TOTAL: 0.00

Completion date : 28-Sep-2018 09:48AM. Estimate expires : 23-Aug-2018 09:47AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

AUTHORIZED BY (print name) _____ SIGNATURE _____ DATE _____

TERMS AND CONDITIONS

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") unless a previous written agreement with respect to the Goods and/or Services (as hereinafter defined) has been entered between the parties, in which event, such previous written agreement shall prevail. In the event of any inconsistency between this Agreement and any purchase order, terms and conditions or other document produced or delivered by Customer, the terms and conditions of this Agreement shall prevail.

1. SCOPE OF SERVICES; PERFORMANCE OF SERVICES. Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) ("Goods") and/or perform the maintenance and/or repair ("Services") on the equipment identified in the Quote and/or Invoice ("Equipment"), if applicable, in accordance with the specifications in the Quote and/or Invoice. No additional services or goods are included in this Agreement unless agreed upon by the parties in writing, or otherwise, as applicable.
2. CUSTOMER OBLIGATIONS. If necessary, Customer shall provide Cummins safe and free access to Customer's site and arrange for all related services and utilities necessary for Cummins to safely and freely perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to injury to facility occupants, customers, invitees, or any third party and/or property damage or work interruption arising out of the Services. If applicable, Customer shall make all necessary arrangements to address and mitigate the consequences of any electrical service interruption which might occur during the Services. Customer is responsible for operating and maintaining the Equipment in accordance with the owner's manual for the Equipment.
3. INVOICING AND PAYMENT. Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Goods and/or Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins.
4. TAXES; EXEMPTIONS. The Invoice includes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer under this Agreement. Customer must provide a valid tax exemption certificate or direct payment certificate prior to shipment of the Goods or performance of the Services, or such taxes will be included in the Invoice.
5. DELIVERY; TITLE AND RISK OF LOSS. Unless otherwise agreed in writing by the parties, any Goods supplied under this Agreement shall be delivered FOB Origin, freight prepaid to the first destination. If agreed, any charges for third party freight are subject to adjustment to reflect any change in price at time of shipment. Unless otherwise agreed to, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. All shipments are made within normal business hours, Monday through Friday. Unless otherwise agreed in writing by the parties, title and risk of loss for any Goods sold under this Agreement shall pass to Customer upon delivery of Goods by Cummins to freight carrier or to Customer at pickup at Cummins' facility.
6. DELAYS. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes.
7. LIMITED WARRANTIES.
 - a. New Goods: New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement.
 - b. Cummins Exchange Components, Other Exchange Components, and Recon: Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.
 - c. HHP Exchange Engines: HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.
- d. General Service Work: All Services shall be free from defects in workmanship (i) for power generation equipment (including engines in such equipment), for a period of ninety (90) days after completion of Services or 500 hours of operation, whichever occurs first; or (ii) for engines, for a period of ninety (90) days after completion of Services, 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of the Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New Goods supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such Goods.
- e. Used Goods: Used Goods are sold "as is, where is" unless exception is made in writing between Cummins and Customer. Customer agrees to inspect all used Goods before completing the purchase.
- f. THE REMEDIES PROVIDED IN THE LIMITED WARRANTIES AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.
8. INDEMNIFICATION. Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services and/or Goods supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed, in whole or in part, by the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity, including any lenders for defense and indemnity by Cummins to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.
9. LIMITATION OF LIABILITY. NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF GOODS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF GOODS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY IN SECTION 7 IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.
10. GOVERNING LAW AND JURISDICTION. This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the court of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.
11. ASSIGNMENT. This Agreement is binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.
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14. INTELLECTUAL PROPERTY. Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.
15. COMPLIANCE WITH LAWS. Customer shall comply with all laws applicable to its activities under this Agreement, including without limitation, any and all applicable national, provincial, and local export, anti-bribery, environmental, health, and safety laws and regulations in effect. Customer acknowledges that the Goods, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Goods or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.
16. CONFIDENTIALITY. Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.
17. MISCELLANEOUS. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement.



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:
 Cummins Sales and Service
 Lockbox 138324 POB 398324
 San Francisco, CA 94139

SPOKANE WA BRANCH
 11134 W. WESTBOW BLVD
 SPOKANE, WA 99224-
 (509)455-4411

INVOICE NO
ESTIMATE
REMIT TO: Lockbox 138324 POB 398324

BILL TO

CITY OF OMAK
 DO NOT MAIL
 OMAK, WA 98841-

OWNER

CITY OF OMAK
 PO BOX 72
 OMAK, WA 98841-
 JESUS ARCINIEGA - 509 826-2383

PAGE 3 OF 3

*** CHARGE ***

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
02-JUL-2019			KTA-1150G		ILI
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
269303		24-JUL-2018	31105348		00DFD466688-M00-W
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
134440					MAIN

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	LIST PRICE	UNIT PRICE	AMOUNT
------------------	--------------	------------------	-------------	-------------	--------------	------------	------------	--------

OSN/MSN/VIN

2769

LABOR:	17,205.00
LABOR COVERAGE CREDIT:	0.00CR
TOTAL LABOR:	17,205.00
TRAVEL:	1,550.00
TRAVEL COVERAGE CREDIT:	0.00CR
TOTAL TRAVEL:	1,550.00
MISC.:	844.00
MISC. COVERAGE CREDIT:	0.00CR
TOTAL MISC.:	844.00
ELECTRONIC TOOLING FEE	50.00
HAZ WASTE DISPOSAL	100.00
SHOP SUPPLIES	150.00
ROAD MILEAGE FS ENG	544.00
CITY	471.44
LOCAL	145.06
STATE	2,357.19

ALL RETAIL SALES FINAL AFTER 30 DAYS
 CORE RETURNED 46 TO 90 DAYS 15% HANDLING
 CORE RETURNED AFTER 90 DAYS, NO CREDIT
 NO RETURN ON ELECTRICAL COMPONENTS
 NO RETURN ON OPENED CUMMINS TOOLS
 RETAIL RETURN POLICY 6 TO 30 DAYS, 15% RESTOCKING FEE
 THANK YOU FOR YOUR BUSINESS!!

You saved \$1,916.65 on your parts.

Completion date : 28-Sep-2018 09:48AM. Estimate expires : 23-Aug-2018 09:47AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

SUB TOTAL: 37,014.51
 TOTAL TAX: 2,973.69

TOTAL AMOUNT: US \$ 39,988.20

AUTHORIZED BY (print name) _____ SIGNATURE _____ DATE _____

TERMS AND CONDITIONS

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") unless a previous written agreement with respect to the Goods and/or Services (as hereinafter defined) has been entered between the parties, in which event, such previous written agreement shall prevail. In the event of any inconsistency between this Agreement and any purchase order, terms and conditions or other document produced or delivered by Customer, the terms and conditions of this Agreement shall prevail.

1. **SCOPE OF SERVICES; PERFORMANCE OF SERVICES.** Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) ("Goods") and/or perform the maintenance and/or repair ("Services") on the equipment identified in the Quote and/or Invoice ("Equipment"), if applicable, in accordance with the specifications in the Quote and/or Invoice. No additional services or goods are included in this Agreement unless agreed upon by the parties in writing, or otherwise, as applicable.

2. **CUSTOMER OBLIGATIONS.** If necessary, Customer shall provide Cummins safe and free access to Customer's site and arrange for all related services and utilities necessary for Cummins to safely and freely perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to injury to facility occupants, customers, invitees, or any third party and/or property damage or work interruption arising out of the Services. If applicable, Customer shall make all necessary arrangements to address and mitigate the consequences of any electrical service interruption which might occur during the Services. Customer is responsible for operating and maintaining the Equipment in accordance with the owner's manual for the Equipment.

3. **INVOICING AND PAYMENT.** Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of Invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Goods and/or Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins.

4. **TAXES; EXEMPTIONS.** The Invoice includes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer under this Agreement. Customer must provide a valid tax exemption certificate or direct payment certificate prior to shipment of the Goods or performance of the Services, or such taxes will be included in the Invoice.

5. **DELIVERY; TITLE AND RISK OF LOSS.** Unless otherwise agreed in writing by the parties, any Goods supplied under this Agreement shall be delivered FOB Origin, freight prepaid to the first destination. If agreed, any charges for third party freight are subject to adjustment to reflect any change in price at time of shipment. Unless otherwise agreed to, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. All shipments are made within normal business hours, Monday through Friday. Unless otherwise agreed in writing by the parties, title and risk of loss for any Goods sold under this Agreement shall pass to Customer upon delivery of Goods by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

6. **DELAYS.** Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes.

7. LIMITED WARRANTIES.

a. **New Goods:** New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement.
b. **Cummins Exchange Components, Other Exchange Components, and Recon:** Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.
c. **HHP Exchange Engine:** HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.

d. **General Service Work:** All Services shall be free from defects in workmanship (i) for power generation equipment (including engines in such equipment), for a period of ninety (90) days after completion of Services or 500 hours of operation, whichever occurs first; or (ii) for engines, for a period of ninety (90) days after completion of Services, 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of the Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New Goods supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such Goods.

e. **Used Goods:** Used Goods are sold "as is, where is" unless exception is made in writing between Cummins and Customer. Customer agrees to inspect all used Goods before completing the purchase.

f. **THE REMEDIES PROVIDED IN THE LIMITED WARRANTIES AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.**

8. **INDEMNIFICATION.** Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services and/or Goods supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed, in whole or in part, by the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity, including any tenders for defense and indemnity by Cummins to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

9. **LIMITATION OF LIABILITY. NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF GOODS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF GOODS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY IN SECTION 7 IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.**

10. **GOVERNING LAW AND JURISDICTION.** This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the court of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

11. **ASSIGNMENT.** This Agreement is binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

12. **CANCELLATION.** Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. Cummins may charge Customer a cancellation charge in accordance with current Cummins policy which is available upon request, in addition to the actual, non-recoverable costs incurred by Cummins.

13. **REFUNDS/CREDITS.** Goods ordered and delivered by Cummins under this Agreement are not returnable unless agreed to by Cummins. Cummins may, at its sole discretion, agree to accept Goods for return and provide credit where Goods are in new and saleable condition and presented with a copy of the original invoice. Credits for returns will be subject to up to a 15% handling/restocking charge and are limited to eligible items purchased from Cummins.

14. **INTELLECTUAL PROPERTY.** Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.

15. **COMPLIANCE WITH LAWS.** Customer shall comply with all laws applicable to its activities under this Agreement, including without limitation, any and all applicable national, provincial, and local export, anti-bribery, environmental, health, and safety laws and regulations in effect. Customer acknowledges that the Goods, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Goods or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

16. **CONFIDENTIALITY.** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

17. **MISCELLANEOUS.** All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to provide performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement.

Waste Water Treatment Plant Backup Generator Repair

SCOPE OF WORK

August 19th, 2019

This project will involve the Engine Overhaul of the Backup Generator and provide a portable connected standby generator while overhaul is being performed, at the City of Omak Waste Water Treatment Plant.

The Omak Public Works Department requires the service of a licensed diesel mechanic for the Overhaul of the backup generator as per manufacturers standards.

Work performed must be completed no later than December 1st, 2019. Anticipated Notice to Proceed will be submitted if approved by City Council on or before August 21st, 2019.

Materials and Labor: \$37,014.51 See attached: The Estimate Form from Cummins Sales and Service.

Tax: \$2,973.69 (8.2%)

Total \$39,988.20 + Any required permits

PUBLIC WORKS CONTRACT

THIS AGREEMENT made and entered into between the City of Omak, State of Washington, acting under and by virtue of Title 35 R.C.W. as amended, hereinafter referred to as "The City," and

**Cummins Sales and Service
Spokane WA Branch
11134 W. West Bow BLVD
Spokane, WA 99224**

for its heirs, executors, administrators, successors and assigns, hereinafter referred to as "The Contractor,"

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this Agreement, the parties hereto covenant and agree as follows:

1. The Contractor shall do all work and furnish all labor, tools, and equipment necessary to install and complete the following for the City of Omak, Washington:

Waste Water Treatment Plant Backup Generator Repair
\$39,988.20

in accordance with the most recent and approved Standards, the recommended manufacturers installation, and as described in the attached Scope of Work.

The Contractor shall provide and bear the expense of all, labor, equipment, tools, and work of any sort whatsoever that may be required for the transfer of materials and for repairing and completing the work provided for in these contract documents.

2. The City of Omak hereby promises and agrees with the Contractor to employ, and does employ the Contractor to do and cause to be done the above described work and to complete and finish the same in accordance with the attached scope of work and the terms and conditions herein contained and hereby contracts to pay for the same according to the attached scope of work the schedule of unit or itemized prices at the time and in the manner and upon the conditions provided for in this contract.
3. The Contractor for himself/herself, and for his/her heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.
4. It is further provided that no liability shall attach to the City by reason of entering into this contract, except as expressly provided herein.
5. The Contractor hereby certifies by execution of this contract that he is registered or licensed as may be required by the laws of the State of Washington, Chapter 18.27 R.C.W.
6. The Contractor hereby agrees to allow the City to retain ten percent (10%) of the contract amount for a period of 30 days from the date of completion of the project in lieu of posting a payment and performance bond as provided in Chapter 39.08.010 RCW.
7. Amounts exceeding the estimated proposal of **\$39,988.20** and the scope changes must be approved by the Public Works Director.

8. The applicant will provide proof of all required licenses and permits to the City prior to receiving a notice to proceed by the Omak P.W. Director. The contractor will be required to pay prevailing wages, submit a "Statement of Intent to Pay Prevailing Wages" to the Department of Labor and Industries, and upon completion of the project, must file an "Affidavit of Wages Paid" as well. An approved "Affidavit of Wages Paid" must be provided before final payment is issued.

IN WITNESS, WHEREOF, the said Contractor has executed this instrument on the day and year wrote below, and the City of Omak has caused this instrument to be executed by its Mayor as authorized by the City Council, duly attested by its Clerk, and the seal of said City hereunto affixed on the day and year last written below.

Executed by the Contractor this _____ day of _____, 2019

CONTRACTOR: _____

By: _____
Signature Title

PRINTED NAME: _____

ADDRESS: _____

City State Zip

PHONE: _____

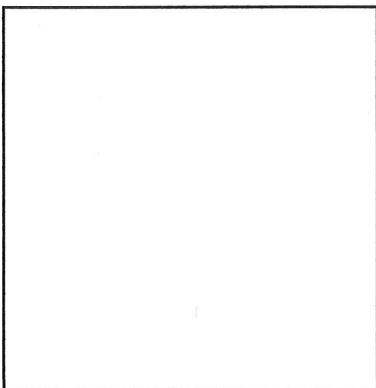
FAX Number: _____

State of Washington Contractor's License Number: _____

Federal Tax I.D. Number: _____ UBI Number. _____

Executed this _____ day of _____, 2019

CITY OF OMAK



Cindy Gagné, Mayor

ATTEST:

Connie Thomas, City Clerk