

**AGENDA**  
**OMAK CITY COUNCIL MEETING**  
**Monday, October 3, 2022 – 7:00 PM**



**ORIGINAL**

**A. CALL TO ORDER**

**B. FLAG SALUTE**

**C. CITIZEN COMMENTS**

**D. CORRESPONDENCE AND MAYOR'S REPORT**

**E. PUBLIC HEARING:**

1. De-Annexation of Agricultural Land from the Incorporated Area of the City

**F. CONSENT AGENDA:**

1. Approval of minutes from September 19, 2022
2. Approval of 2022 Claims and September '22 Payroll

**G. NEW BUSINESS:**

1. Update on City Projects – Dave Durnford, Resident Inspector, Gray & Osborne, Inc.

2. Ord. 1915 Appr. Petition to Exclude Agricultural Land from the Incorporated Area of the City 

3. Res. 56-2022 Approve Purchase Agreement with Datec 

4. Res. 57-2022 Approve Mutual Aid Agreement with Okanogan County Public Health 

5. Res. 58-2022 Accepting Grant from WA State Recreation and Conservation Office 

6. Res. 59-2022 Appr. Task Order #70-22-020 J-U-B Engineering Contract-Airport Reservoir Bid 

7. Res. 60-2022 Guaranteeing Funding for the Construction of the Omak Airport Reservoir 

8. Res. 61-2022 Appr. Operational Agr. with North Central Washington Special Response Team 

9. Res. 62-2022 Approving Sole Source Purchase of Clarifier Parts 

10. Res. 63-2022 Approve Professional Service Agreement with Highlands Associates 

10. Res. 64-2022 Approve Security Agreement – Pending City Attorney Review 

**H. OTHER BUSINESS:**

1. Council Committee Reports
2. Staff Reports

**Omak City Council is inviting you to a scheduled Zoom meeting.**

Topic: Omak City Council Meeting

Time: Oct 3, 2022 07:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/83977626040?pwd=RVpiNVA2dVE5YUVKYzUreHNPUISOQT09>

Meeting ID: 839 7762 6040

Passcode: 387331

One tap mobile

+12532158782,,83977626040#,,,,\*387331# US (Tacoma)

+13462487799,,83977626040#,,,,\*387331# US (Houston)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 444 9171 US

+1 669 900 6833 US (San Jose)

+1 719 359 4580 US

+1 301 715 8592 US (Washington DC)

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 386 347 5053 US

+1 564 217 2000 US

+1 646 931 3860 US

+1 929 205 6099 US (New York)

Meeting ID: 839 7762 6040

Passcode: 387331

Find your local number: <https://us02web.zoom.us/j/83977626040?pwd=RVpiNVA2dVE5YUVKYzUreHNPUISOQT09>

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In accordance with the order from Governor Inslee, our Council Meeting will be conducted using Zoom Meetings. If you need support or, accommodations to view the meeting at City Hall, contact the City Clerk in advance by phone at 509-826-1170 or by e-mail [clerk@omakcity.com](mailto:clerk@omakcity.com) for assistance.

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# MEMORANDUM

To: Cindy Gagné, Mayor  
Omak City Council

From: Tyler Wells  
Building Official / Permit Administrator

Date: October 3, 2022

Subject: **Ordinance 1915, Petition to exclude agricultural land from the incorporated are of the city.**

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The Attached Ordinance 1915, An Ordinance excluding agricultural land from the incorporated area of the city, is forwarded for your consideration.

The City of Omak has received (2) two petitions to exclude agricultural land from the incorporated area of the City of Omak.

The City Council of the City of Omak passed Resolution No. 51-2022 on September 6, 2022, fixing the date for hearing on petition for exclusion of agricultural land from the City of Omak.

The property to be excluded by this Ordinance consists of approximately 73.96 acres of land with boundaries of said property being contiguous to the City of Omak and Okanogan County. There are no registered voters residing in the area proposed for exclusion.

I support the passage of this Ordinance

**ORDINANCE NO. 1915**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OMAK, WASHINGTON, EXCLUDING AGRICULTURAL LAND FROM THE INCORPORATED AREA OF THE CITY.**

**WHEREAS**, RCW 35A.16.080 provides the process and procedure for exclusion of agricultural land from the incorporated area of a code city; and

**WHEREAS**, the owners of agricultural land have filed a petition with the City of Omak to exclude their agricultural land from the incorporated area of the City; and

**WHEREAS**, Exhibit A attached hereto contains the legal description of said real property, together with the Okanogan County Auditor's parcel number and an area map; and

**WHEREAS**, said real property contains approximately 73.96 acres; and

**WHEREAS**, there are no registered voters residing in the area proposed for exclusion; and

**WHEREAS**, on October 3, 2022, the Omak City Council held a public hearing to consider said petition after due and proper notice of the time and place of said hearing as required by law,

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OMAK, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** The entirety of the real property described in Exhibit A attached hereto and incorporated herein shall be excluded from the boundaries of the City of Omak.

**Section 2.** This ordinance shall become effective from and after passage by the council, approval by the Mayor, and five days after publication of this ordinance, or a summary, as provided by law.

**PASSED BY THE CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, 2022.

**APPROVED:**

\_\_\_\_\_  
Cindy Gagne, Mayor

**ATTEST:**

---

Connie Thomas, City Clerk

**APPROVED AS TO FORM:**

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Michael D. Howe, City Attorney

**DERTING & APPEL, PLLC**  
Attorneys At Law

Mary E. (Bess) Derting  
Heidi E. Appel

P.O. Box 845  
112 N. 2<sup>nd</sup> Ave.  
Okanogan, WA 98840  
Ph: 509.422.1601  
Fax: 866.238.7585

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August 9, 2022

City of Omak  
PO Box 72  
Omak, WA 98841

RE: Petition to Exclude Agricultural Land from the City of Omak  
RCW 35A.16.080

Dear City Council,

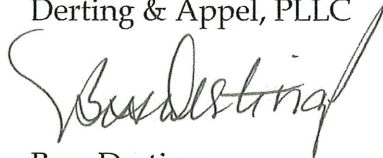
Enclosed please find the following:

- 1) Shellrock Properties, LLC Petition to Exclude Agricultural Land from the City of Omak
- 2) Elias Sandoval Petition to Exclude Agricultural Land from the City of Omak

Please contact our office if you have any questions or concerns.

Sincerely,

Derting & Appel, PLLC



Bess Derting  
Attorney At Law  
[bessderting@gmail.com](mailto:bessderting@gmail.com)

Enclosures

CC: Shellrock Properties, LLC  
Elias Sandoval



1 **TO: CITY OF OMAK**  
2 **FROM: SHELLROCK PROPERTIES, LLC**  
3  
4 **RE: PETITION TO EXCLUDE AGRICULTURAL LAND FROM THE CITY**  
5 **OF OMAK**

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6  
7 Shellrock Properties, LLC, Petitioner, states and requests the following:


- 8 1) Petitioner is a limited liability company formed in the State of Washington.  
9  
10 2) Petitioner is the owner of the real property described in Exhibit A and shown on  
11 Exhibit B Map, attached hereto and hereinafter referred to as the "Property".  
12  
13 3) Petitioner respectfully requests the removal and exclusion of the agricultural Property  
14 from the incorporated area of the City of Omak pursuant to RCW 35A.16.080.

14 WARNING

15 Every person who signs this petition with any other than his or her true name, or who knowingly  
16 signs more than one of these petitions or signs a petition seeking an election when he or she is  
17 not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who  
18 makes herein any false statement, shall be guilty of a misdemeanor.

19 Each signature shall be executed in ink or indelible pencil and shall be followed by the name and  
20 address of the signer and the date of signing.

21 **SHELLROCK PROPERTIES, LLC**

22  
23  
24   
25 By: Robert Tollefson, Member

24 8/8/22  
25 Date of Signing

26  
27   
28 By: Ronna Tollefson, Member

27 8/8/22  
28 Date of Signing

29 PO Box 4200  
30 Omak, WA 98841

31  
32 PETITION

Derting & Appel, PLLC  
Attorneys At Law  
P.O. Box 845  
Okanogan, WA 98840  
509-422-1601

1 TO: CITY OF OMAK  
2 FROM: SHELLROCK PROPERTIES, LLC  
3  
4 RE: PETITION TO EXCLUDE AGRICULTURAL LAND FROM THE CITY  
5 OF OMAK

6  
7 Shellrock Properties, LLC, Petitioner, states and requests the following:

- 8 1) Petitioner is a limited liability company formed in the State of Washington.  
9  
10 2) Petitioner is the owner of the real property described in Exhibit A, attached hereto  
11 and hereinafter referred to as the "Property".  
12  
13 3) Petitioner respectfully requests the removal and exclusion of the agricultural Property  
14 from the incorporated area of the City of Omak pursuant to RCW 35A.16.080.

15 WARNING

16 Every person who signs this petition with any other than his or her true name, or who knowingly  
17 signs more than one of these petitions or signs a petition seeking an election when he or she is  
18 not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who  
19 makes herein any false statement, shall be guilty of a misdemeanor.

20 Each signature shall be executed in ink or indelible pencil and shall be followed by the name and  
21 address of the signer and the date of signing.

22 **SHELLROCK PROPERTIES, LLC**

23  
24 

25 By: Charles Berrie, Member

26 8-4-2022  
Date of Signing

27 

28 By: Sharon Berrie, Member

29 8/4/2022  
Date of Signing

30 PO Box 606  
Mead, WA 99021

31  
32 PETITION

Dering & Appel, PLLC  
Attorneys At Law  
P.O. Box 845  
Okanogan, WA 98840  
509-422-1601

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**EXHIBIT A**  
**LEGAL DESCRIPTION**

Parcel # 3326030074

The Northeast quarter of the Northwest quarter of Section 3, Township 33 North, Range 26 East, Willamette Meridian, Okanogan County, Washington, EXCEPT that portion thereof described as follows:

BEGINNING at the Northwest corner of said subdivision, a brass-capped concrete monument;

THENCE along the North boundary line of said subdivision, North 88°32'14" East a distance of 647.36 feet;

THENCE South 13°51'31" West a distance of 351.30 feet;

THENCE South 10°43'23" West a distance of 474.40 feet;

THENCE South 88°32'14" West a distance of 464.73 feet to the West boundary line of said subdivision;

THENCE along said West boundary line, North 01°26'19" West a distance of 802.52 feet to the Northwest corner of said subdivision and the TRUE POINT OF BEGINNING.

Parcel # 3326031004

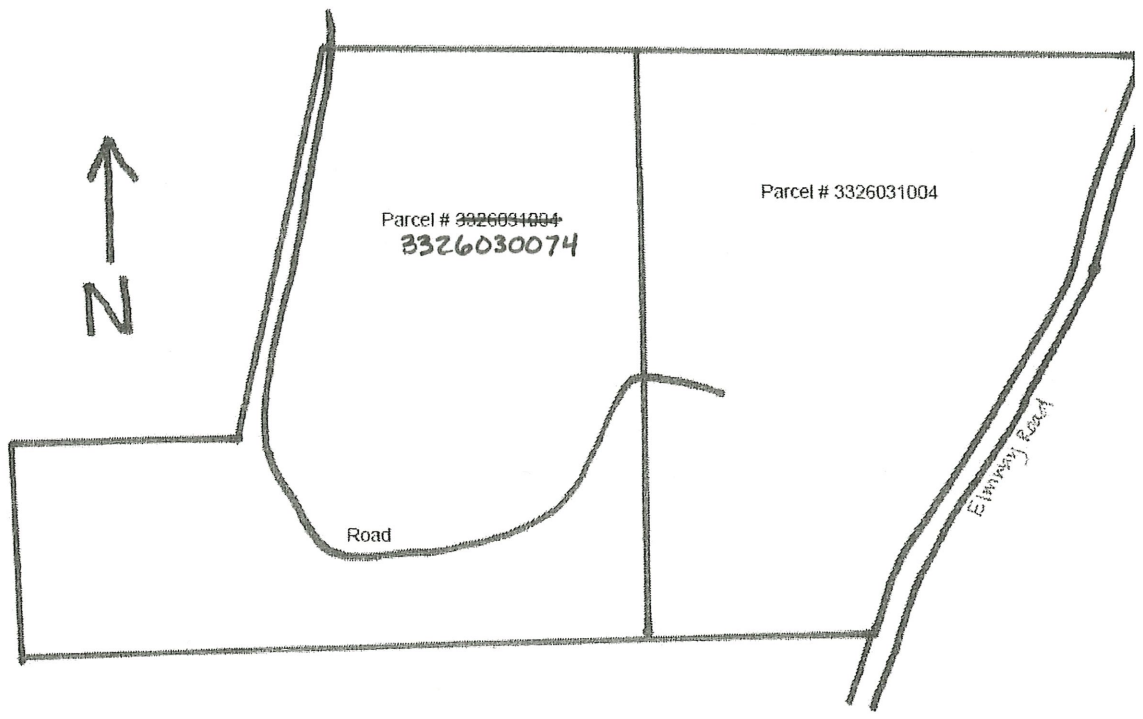
THAT PORTION OF GOVERNMENT LOT 2 (FR. NW NE) OF SECTION 3, TOWNSHIP 33 NORTH, RANGE 26 E. W.M., LYING WESTERLY OF THE STATE HIGHWAY RIGHT OF WAY IN OKANOGAN COUNTY, WASHINGTON.

PETITION

Derting & Appel, PLLC  
Attorneys At Law  
P.O. Box 845  
Okanogan, WA 98840  
509-422-1601

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**EXHIBIT B**  
**Map**



PETITION

Derting & Appel, PLLC  
Attorneys At Law  
P.O. Box 845  
Okanogan, WA 98840  
509-422-1601



1 **TO: CITY OF OMAK**  
2 **FROM: ELIAS SANDOVAL**  
3  
4 **RE: PETITION TO EXCLUDE AGRICULTURAL LAND FROM THE CITY**  
5 **OF OMAK**

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6  
7 Elias Sandoval, Petitioner, states and requests the following:

- 8 1) Petitioner resides in Okanogan County, Washington.  
9  
10 2) Petitioner is the owner of the real property described in Exhibit A and shown on  
11 Exhibit B Map, attached hereto and hereinafter referred to as the "Property".  
12  
13 3) Petitioner respectfully requests the removal and exclusion of the agricultural Property  
14 from the incorporated area of the City of Omak pursuant to RCW 35A.16.080.

15 WARNING

16 Every person who signs this petition with any other than his or her true name, or who knowingly  
17 signs more than one of these petitions or signs a petition seeking an election when he or she is  
18 not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who  
19 makes herein any false statement, shall be guilty of a misdemeanor.

20 Each signature shall be executed in ink or indelible pencil and shall be followed by the name and  
21 address of the signer and the date of signing.

22  
23 Elias Sandoval  
24 Elias Sandoval

25 8/9/2022  
26 Date of Signing

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32 PETITION

Derting & Appel, PLLC  
Attorneys At Law  
P.O. Box 845  
Okanogan, WA 98840  
509-422-1601

**EXHIBIT A**  
**LEGAL DESCRIPTION**

Parcel # 3326030073, 3426340240

That portion of the Southeast quarter of the Southwest quarter of Section 34, Township 34 North, Range 26 East, Willamette Meridian, Okanogan County, Washington, described as follows:

COMMENCING at the Southeast corner of said subdivision and being the TRUE POINT OF BEGINNING;

THENCE along the South line thereof South 89°29'43" West a distance of 1305.16 feet to the southwest corner of said subdivision;

THENCE North 00°38'56" East a distance of 125.55 feet;

THENCE North 53°48'06" East a distance of 641.11 feet;

THENCE North 80°31'31" East a distance of 105.40 feet;

THENCE North 85°48'07" East a distance of 96.35 feet;

THENCE North 64°07'17" East a distance of 157.68 feet;

THENCE North 48°16'28" East a distance of 614.60 feet to the East line of said subdivision;

THENCE along said East line South 00°49'23" West a distance of 995.05 feet to the TRUE POINT OF BEGINNING.

TOGETHER WITH that portion of the Northeast quarter of the Northwest quarter of Section 3, Township 33 North, Range 26 East, Willamette Meridian, Okanogan County, Washington, described as follows:

BEGINNING at the Northwest corner of said subdivision, a brass-capped concrete monument;

THENCE along the North boundary line of said subdivision, North 88°32'14" East a distance of 647.36 feet;

THENCE South 13°51'31" West a distance of 351.30 feet;

THENCE South 10°43'23" West a distance of 474.40 feet;

THENCE South 88°32'14" West a distance of 464.73 feet to the West boundary line of said subdivision;

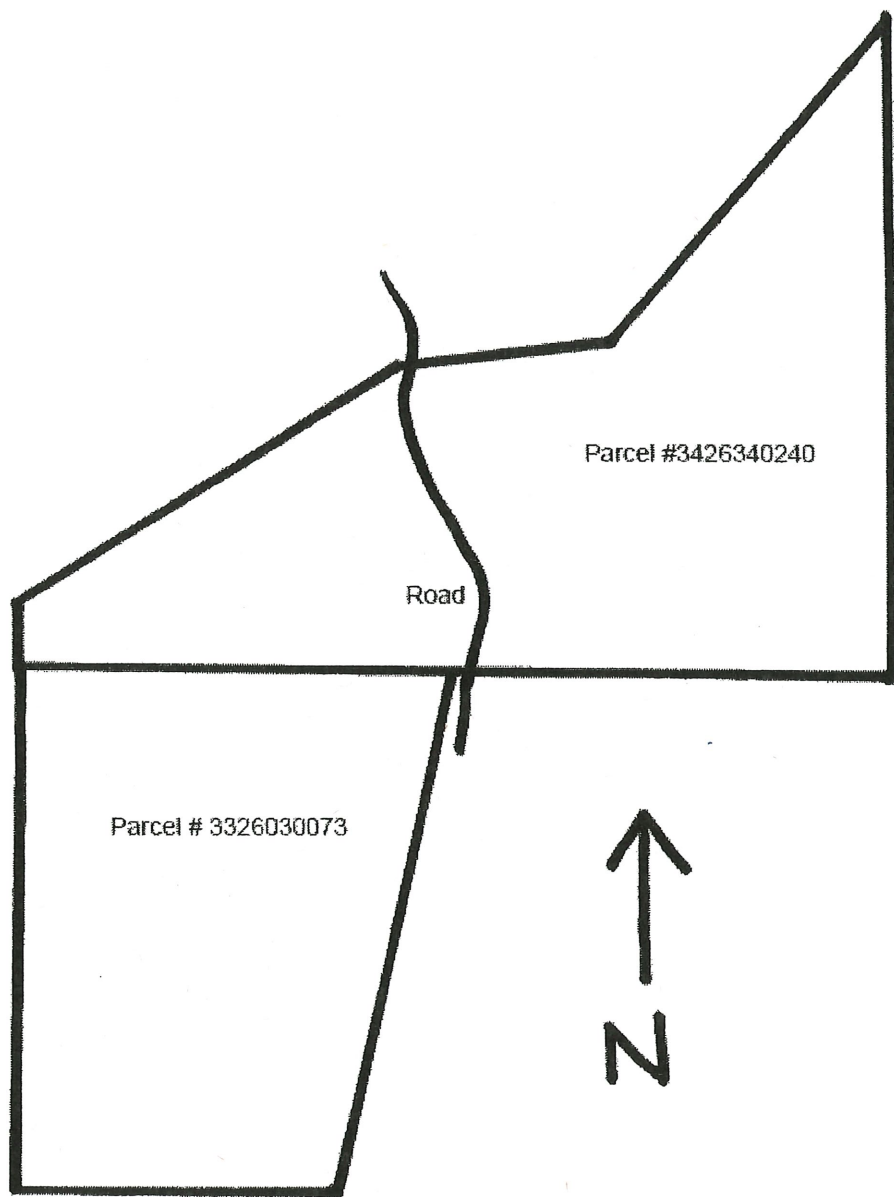
THENCE along said West boundary line, North 01°26'19" West a distance of 802.52 feet to the Northwest corner of said subdivision and the TRUE POINT OF BEGINNING.

PETITION

Derting & Appel, PLLC  
Attorneys At Law  
P.O. Box 845  
Okanogan, WA 98840  
509-422-1601

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**EXHIBIT B**  
**Map**



PETITION

Derting & Appel, PLLC  
Attorneys At Law  
P.O. Box 845  
Okanogan, WA 98840  
509-422-1601



T34R26S34

PANORAMA PT

PANORAMA PT

Panorama Point Rd

Jasmine Ct

W E

JASMINE ST

High DITCH DR

EMERALD SW

MIDDLE LN

215

HAUSLER Rd  
Middle Lane Rd

Jasmine Ct

Okama Dr

P.# 3426340240

P.# 3326030073

P.# 3326031004

P.# 3326030074

Elmway

Okanogan River

HIGHWAY 215  
974 Elmway

215

Colville In



**RESOLUTION NO. 51-2022**

**A RESOLUTION, FIXING TIME FOR HEARING ON PETITION FOR EXCLUSION OF AGRICULTURAL LAND FROM THE CITY OF OMAK.**

**WHEREAS**, RCW 35A.16.080, applicable to the City of Omak, provides for the owner(s) of agricultural land to file a petition to exclude agricultural land from the incorporated area of a code city; and

**WHEREAS**, A petition was submitted to the City on August 12, 2022; and

**WHEREAS**, the legislative body of the City of Omak resolves to set the date to hear such petition for exclusion to the City of Omak pursuant to said statute; and

**WHEREAS**, the following described real property is the subject matter of this Resolution for exclusion (de-annexation):

See the attached Petition, Okanogan County parcel numbers, legal descriptions, and the area map attached as exhibit "A"; and

**WHEREAS**, real properties set forth in Exhibit "A" contain approximately 73.96 acres of land; and

**WHEREAS**, the real property set forth in Exhibit "A" contains approximately 15 Acres of land currently being used as orchard land; and

**WHEREAS**, there are 0 registered voters residing in the area proposed to be excluded.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OMAK**, as follows:

**SECTION I**

That Monday, the 3<sup>rd</sup> day of October 2022, at the hour of 7:00 o'clock p.m. be and the same is hereby fixed as the date for public hearing upon the petition for exclusion of agricultural land to the City of Omak at the Council Chambers, City Hall, 2 North Ash St., Omak, at which time and place or as soon thereafter as the matter be heard, all interested persons may appear and voice their approval or disapproval of said petition.

**SECTION II**

That the City Clerk of the City of Omak give notice of the time and place of said hearing on petition of exclusion by publication of a notice of public hearing at least once, prior to the date of hearing in the Omak-Okanogan Chronicle, a newspaper of general

circulation in the City of Omak. The notice shall also be posted in three public places within the territory proposed for exclusion and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the exclusion.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**SIGNED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

**ATTEST:**

\_\_\_\_\_  
Connie Thomas, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael Howe, City Attorney

## Staff Report

**DATE:** September 27, 2022

**TO:** Mayor Cindy Gagné – Omak City Council

**FROM:** Tyler Wells, Building Official

**RE:** Shellrock Point de-annexation petition:

**Proposal:** The City of Omak received (2) two separate petitions for the exclusion of agricultural land from the incorporated area of the City of Omak on August 12, 2022, from Shellrock Properties LLC and Elias Sandoval as provided for in RCW 35A.16.080.

On September 6, 2022, the Omak City Council approved Resolution 51-2022 – fixing time for hearing on petitions for exclusion “Exhibit B”. The hearing date was set for October 3, 2022, at 7:00 P.M. There are no registered voters residing in the area proposed for exclusion.

**Location Information:** The subject properties include parcels #3426340240, #3326030073, #3326030074 and, #3326031004, totaling approximately 73.96 acres of land located on properties South and Southwest of Mid Valley Hospital in South Omak. See attached petition(s), legal description, and map “Exhibit A”

**Current use:** The subject properties are currently undeveloped with the exceptions of approximately 15 Acres of land currently being used as orchard land with associated irrigation equipment. The subject properties are currently not being served by city utilities.

**Current Comprehensive Plan Designation:** According to the Greater Omak Area Comprehensive Plan Map the subject properties are currently designated as Auto-Oriented Commercial and Low Density Residential.

**Current Zoning:** The Subject properties are currently zoned as (HB) Highway Business and (RS) Residential Single-Family.

**Floodplains, Shorelines, SEPA, Critical Areas and Other Environmental Constraints:** The properties do not lie within a designated floodplain or shoreline area. According to the City of Omak Critical Areas Map, the subject property lies within an area designated as having a “Moderate potential for aquifer recharge”, an Upland Habitat Conservation Area, a designated Erosion Hazzard Area, a Steep Slopes Hazzard area, and an area with soils rated very limited for building. Annexation proceedings are categorically exempt from SEPA review.



**Reviewing Agencies:** City of Omak Building/Planning and City Administration Staff. Okanogan County Planning Department and Assessors Office.

**Analysis:** There are many constraints to the development of these properties. Access now is provided through Panorama Point Road which is an extension of Hendrick Loop Road off of Kermel Road in Okanogan County. The elevations also provide problems when taking into mind water and sewer utilities being extended into the properties along with roads for access. Many other properties in North Omak are much more suitable for developments and expansion. These properties being used for agricultural land is the most practical and best use. Excluding these properties from the City of Omak has the greatest public interest.

**Recommendations:** City staff recommends City Council to effect the exclusion of agricultural land from the incorporated area of the City of Omak by ordinance.

**Findings of Fact:**

1. That all requirements of RCW 35A.16.080 were followed during this process.
2. That the annexation is exempt from review under the State Environmental Policy Act.
3. Proper notice regarding the public hearing was provided.
4. That the approval of the petition for exclusion does not represent a granting of special privileges.
5. That the public interest will be served by approval of this exclusion.
6. That all interested persons were given the opportunity to comment on behalf of this petition during the public hearing before the Omak City Council held on October 3, 2022.





# Omak Police Department

8 N. Ash, P.O. Box 72, Omak, WA 98841 • (509) 826-0383 • FAX 826-0116

DANIEL J. CHRISTENSEN  
Chief of Police

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## Memorandum

Date: September 19<sup>th</sup>, 2022

To: Omak City Council, Omak Mayor Gagné

From: Chief Daniel Christensen

Subject: Resolution Number 56-2022

I am requesting support and approval for the acquisition of a digital camera surveillance system for the City of Omak infrastructure, the Omak Police Department, and the ability to deploy portable monitoring if appropriate for the safety, and security of the City of Omak.

The police department is in need of digital surveillance for our evidence, facilities, and safety of our personnel and property. In addition, we will be able to provide other City of Omak properties and assets by a shared system. This would include the Public Works, City of Omak Airport, City of Omak Treatment Plant, and Civic League Park.

Verkada camera systems has provided a 90 day use of their product that the Police Department has utilized both inside and outside of the Police Department. Datec Incorporated is a supplier of the Verkada monitoring and camera system. A site visit was conducted by Datec and along with Assistant Public Works Director Don Ables and evaluation was conducted of City Resources and Assets. A planned deployment was created and a presentation was provided. After initial review systems were added for the Airport and the Civic League Band Shell. The full deployment offers a 20% discount of \$56,287.73 including tax. Infrastructure for the system includes a new Juniper Power over Ethernet Switch \$1,600.28, a Ubiquiti point to point transmission system \$1,513.86, and Statement of Work for connection of \$2,500.00 for a total of \$60,541.87

In addition we will need CAT 5 cabling that I anticipate to be below \$2,000.00. We will utilize in-house deployment with the assistance of Public Works to many existing non-working camera locations.



# Omak Police Department

8 N. Ash, P.O. Box 72, Omak, WA 98841 • (509) 826-0383 • FAX 826-0116

DANIEL J. CHRISTENSEN  
Chief of Police

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Last year I budgeted \$65,000.00 for a fenced security yard and overhead cover for parking of police vehicles in the 2022 Budget. I would like to shift this budget for support of improving the security of not only the police, but several public works, airport, and parks departments.

I recommend its approval and have the funds budgeted if adjustment is approved. Cost \$63,000.00.

Respectfully submitted  
Chief Christensen

**RESOLUTION NO. 56-2022**

**A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING A PURCHASE AGREEMENT DATEC INCORPORATED.**

**WHEREAS**, the Police Chief has requested quotes and statement of work for video and surveillance equipment, and

**WHEREAS**, there is a need to purchase a digital camera system for security of the City of Omak facilities, Police Department, and Omak Police evidence, and

**WHEREAS**, the acquisition of these supplies will continue the efficient operation and function of the City of Omak and Omak Police Department, and

**WHEREAS**, the department has evaluated systems and found the Master Contract Usage Agreement with the Washington State Department of Enterprise Services Master contract number 05819 and 05116 participating addendum to Naspo ValuePoint Master Agreement for Data Communications is the best purchasing agreement; and

**WHEREAS**, the department is working towards the infrastructure security, safety, and for accreditation; and

**WHEREAS**, this acquisition is consistent with the City of Omak mission.

**NOW, THEREFORE, BE IT RESOLVED BY THE OMAK CITY COUNCIL**, that the Statement of Work and quotes from Datec Incorporated, attached hereto as Exhibit "A", for the purchase and implementation of a camera system for the City of Omak.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**APPROVED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Connie Thomas, City Clerk

\_\_\_\_\_  
Michael D. Howe, City Attorney





364 Upland Drive  
 Tukwila, WA 98188  
 206-575-1470

# EXHIBIT A

## Quote

Date	Quote #
9/16/2022	Q2091625

Ship To	Validity	Account Manager
City of Omak Police Department Attn: Daniel J. Christensen 8 North Ash Street Omak, WA 98841	10/14/2022	Courtney C.
	Terms	Inside A.M. / S.E.
	Net 20	Erik S. / Justin H.

Part Number	Description	Qty	MSRP \$	Unit Cost	Disc. %	Total
	Verkada Quote - Full Deployment Notes: NASPO Master Contract Number: AR2472					
ACC-MNT-10	Verkada Corner Mount	6.00	199.00	160.19	20%	961.14T
ACC-MNT-2	Verkada Arm Mount Kit	11.00	89.00	71.64	20%	788.04T
ACC-MNT-3	Verkada L-Bracket Mount Kit	2.00	129.00	103.84	20%	207.68T
ACC-MNT-8	Verkada Pendant Cap Mount	11.00	69.00	55.54	20%	610.94T
ACC-MNT-9	Verkada Pole Mount, 2nd Generation	3.00	209.00	168.24	20%	504.72T
CD52-256-HW	Verkada CD52 Indoor Dome Camera, 256GB, 30 Days Max	2.00	1,199.00	965.14	20%	1,930.28T
CD52-256E-HW	Verkada CD52-E Outdoor Dome Camera, 256GB, 30 Days Max	4.00	1,399.00	1,049.25	20%	4,197.00T
CF81-30E-HW	Verkada CF81-E Outdoor Fisheye Camera, 30 Days Max	15.00	1,999.00	1,609.11	20%	24,136.65T
CM41-30-HW	Verkada CM41 Indoor Mini Dome Camera, 30 Days Max	2.00	799.00	643.15	20%	1,286.30T
LIC-5Y	Verkada 5 Year License	23.00	899.00	723.66	20%	16,644.18T
ENT Shipping CC	Shipping	1.00	n/a	755.00	n/a	755.00T

End User PO #		<b>Subtotal</b>	<b>\$52,021.93</b>
		<b>Sales Tax (8.2%)</b>	<b>\$4,265.80</b>
Signature	_____	<b>Total</b>	<b>\$56,287.73</b>

Sales	Finance	Phone	Fax
insidesales@datecinc.net	finance@datecinc.net	206-575-1470	206-394-8599



364 Upland Drive  
 Tukwila, WA 98188  
 206-575-1470

*Quote*

Date	Quote #
7/14/2022	Q2071431

Ship To	Validity	Account Manager
City of Omak Police Department Attn: Daniel J. Christensen 8 North Ash Street Omak, WA 98841	9/30/2022	Courtney C.
	Terms	Inside A.M. / S.E.
	Net 20	Erik S. / Justin H.

Part Number	Description	Qty	MSRP \$	Unit Cost	Disc. %	Total
EX2300-24P	Juniper EX Series Switching 24-port EX2300 10/100/1000BASET POE+ 4 X 1/10G SFP/SFP+ Optics Sold Separately)	1.00	3,232.00	1,358.00	58%	1,358.00T
SVC-COR-EX23-24P	Juniper Care Core Support for EX2300-24P 36 Months	1.00	\$126.90	121.00	5%	121.00T

End User PO #		<b>Subtotal</b>	<b>\$1,479.00</b>
		<b>Sales Tax (8.2%)</b>	<b>\$121.28</b>
Signature	_____	<b>Total</b>	<b>\$1,600.28</b>
Sales	Finance	Phone	Fax
insidesales@datecinc.net	finance@datecinc.net	206-575-1470	206-394-8599





364 Upland Drive  
 Tukwila, WA 98188  
 206-575-1470

**Quote**

Date	Quote #
9/13/2022	Q2091327

Ship To	Validity	Account Manager
Omak PD Chief Christensen	10/3/2022	Courtney C.
	Terms	Inside A.M. / S.E.
	Net 20	Erik S. / Justin H.

Part Number	Description	Qty	Unit Cost	Total
LTU-Rocket-US	Ubiquiti LTU Rocket 600 Mbit/s Wireless Access Point - 5 GHz - MIMO Technology - 1 x Network (RJ-45) - Gigabit Ethernet - Pole-mountable	2.00	387.00	774.00T
HORN-5-30	Ubiquiti 5 GHz Beamwidth Horn Antenna - 5.15 GHz to 5.85 GHz - 19 dBi - Base Station	2.00	73.00	146.00T
LTU-LR-US	Ubiquiti LTULR 600 Mbit/s Wireless Access Point - 5 GHz - 1 x Network (RJ-45) - Gigabit Ethernet - PoE Ports - Pole-mountable RADIO	3.00	127.71	383.13T
LTU-Lite-US	Ubiquiti LTULite 600 Mbit/s Wireless Access Point - 5 GHz - 1 x Network (RJ-45) - Gigabit Ethernet - Pole-mountable, Wall Mountable	1.00	96.00	96.00T

End User PO #	Subtotal		\$1,399.13
	Sales Tax (8.2%)		\$114.73
Signature	Total		\$1,513.86
Sales	Finance	Phone	Fax
insidesales@datecinc.net	finance@datecinc.net	206-575-1470	206-394-8599



## opd401

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**From:** Courtney Cook <Courtney.Cook@datecinc.net>  
**Sent:** Tuesday, September 13, 2022 5:34 PM  
**To:** opd401  
**Cc:** Justin Howell; Erik Sklover  
**Subject:** Verkada Security Cam Project Info.  
**Attachments:** Omak PD - Verkada Project Quotes.pdf

[External Email]

Hi Chief Christiansen,

Please find attached all of the quotes and SoW for your Security Camera Initiative and below a quick pricing reference for you.

Erik is confirming the lead times for the Ubiquiti Base Station and access points and will update the validity date on your Juniper quote.... We should have those over to you shortly.

Verkada - Full Deployment	\$	52,811.07
Juniper POE Switch	\$	1,560.00
Ubiquiti Point to Point Solution	\$	1,514.00
Datec Pro Services	\$	2,500.00

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Project Total	\$	58,385.07
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It sounds like you are getting close to making this happen. We are really looking forward to seeing you get these deployed. It's a fantastic solution.

Please reach out with any questions – we are all happy to assist.

Have a great evening,

Courtney

*Courtney Cook*

Account Manager | WA, ID, MT  
509.828.2278  
[courtney.cook@datecinc.net](mailto:courtney.cook@datecinc.net)



## MEMORANDUM

To: Omak City Council  
Cindy Gagnè, Mayor

From: Todd McDaniel  
City Administrator

Date: October 3, 2022

Subject: Mutual Aid Agreement with Okanogan County Public Health

---

The Attached **Resolution 57-2022- Approving a Mutual Aid Agreement with Okanogan County Public Health**, is forwarded for your consideration.

The Okanogan County Public Health continues to provide the public COVID-19 vaccinations. They have requested the use of Eastside Park for their upcoming vaccination event. They would like to have access to the park through the Month of October, but only have two events scheduled for October 14<sup>th</sup> and October 28<sup>th</sup>, from 9am to 2pm.

We do not expect this to conflict with any other park use. Public Works will assist with necessary signage and support to ensure safe traffic flows during the event. This agreement compensates the city for the use of the park and Public Work support.

I approve this Resolution and urge its Adoption

**RESOLUTION No. 57-2022**

**A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING A MUTUAL AID AGREEMENT BETWEEN THE CITY OF OMAK AND OKANOGAN COUNTY PUBLIC HEALTH**

**WHEREAS**, the Revised Code of Washington, RCW 35.77.020 authorizes units of government within the State to enter into cooperative agreements for the provision of goods and services to each other; and

**WHEREAS**, Okanogan County Public Health Department requires a suitable location to provide public vaccination, as a response to the COVID-19 Pandemic; and

**WHEREAS**, East Side Park has been identified by the Department of Health as a suitable Location.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Omak that the Mutual Aid Agreement, between the City of Omak and Okanogan County Public Health a copy of which is attached hereto as Exhibit "A", is approved. The Mayor is hereby authorized and directed to execute the same for and on behalf of the City.

**INTRODUCED AND APPROVED** by the City Council of the City of Omak this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**APPROVED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Connie Thomas, City Clerk

\_\_\_\_\_  
Michael D. Howe, City Attorney



# EXHIBIT A

**MUTUAL AID AGREEMENT  
BETWEEN  
Okanogan County Public Health  
AND  
City of Omak  
Covid-19 Vaccination Off-Site Direct Support**

This agreement is made and entered into this 23 day of September 2022, by and between Okanogan County Public Health, hereinafter referred to as OCPH and City of Omak, .

WHEREAS, it is necessary to ensure adequate resources are available to support and respond to the COVID-19 Pandemic in Okanogan County, AND

WHEREAS, each party recognizes that public health emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential for the protection of lives and for best use of available assets. This Agreement shall provide for mutual assistance among the Parties in the prevention of, response to, mitigation of and recovery from, a public health incident. The intent of this Agreement is to make access available to support Covid 19 vaccinations; AND

WHEREAS, it is necessary and desirable that an appropriate agreement be executed for the interchange of such mutual aid;

NOW, THEREFORE, it is hereby agreed by and between the parties hereto as follows:

1. City of Omak shall allow OCPH to utilize Eastside Park, for the purpose of accessing the road for covid vaccination events on: October 14<sup>th</sup> and 28<sup>th</sup>, 2022
2. OCPH shall coordinate and pay for expenses incurred by the City of Omak directly related to the support of off-site Covid-19 vaccination events per DOH/FEMA funding.
3. OCPH shall reimburse City of Omak \$10,000 per event date, upon receiving receipt of a written invoice submitted to OCPH for DOH/FEMA approval.
4. City of Omak shall submit an invoice to OCPH for the above dates documenting \$10,000/event charge for services from 9:00 am-2pm.
5. It is hereby understood, unless otherwise required by law or other agreement of the parties, that all services and/or resources provided under the terms of this Mutual Aid Agreement are furnished and/or supplied

voluntarily and at the discretion of the furnishing agency. The furnishing agency shall have the primary interest of protecting the welfare of its own constituency and does not assume any responsibilities or liabilities for not providing resources and/or services to other parties to this Agreement.

6. It is hereby understood that the agreements entered into hereunder shall not supplant existing mutual aid agreements nor deny the right of any party hereto to negotiate supplemental mutual aid agreements.
7. Mutual aid extended pursuant to this Agreement shall be furnished in accordance with the provisions of Chapter 38.52 Revised Code of Washington, as well as other provisions of law.
8. This Agreement shall be in effect September 23, 2022 and continue through October 28, 2022.
9. Any party to this Agreement may withdraw after written notification to the other parties to this Agreement.
10. OCPH shall indemnify and hold the agency and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the agency arising out of, in connection with, or incident to the execution of this Agreement and/or OCPH performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the agency, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of OCPH; and provided further, that nothing herein shall require OCPH to hold harmless or defend the agency, its agents, employees and/or officers from any claims arising from the sole negligence of the agency, its agents, employees, and/or officers. No liability shall attach to the agency by reason of entering into this Agreement, except as expressly provided herein.

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**City of Omak**

**Date** \_\_\_\_\_

---

**Lauri Jones, Community Health  
Director**

**Date** \_\_\_\_\_



## MEMORANDUM

To: Omak City Council  
Cindy Gagnè, Mayor

From: Todd McDaniel  
City Administrator

Date: October 3, 2022

Subject: Skate Park RCO Grant

---

The Attached **Resolution 58-2022- Accepting a Grant From the Washington State Recreation and Conservation Office**, is forwarded for your consideration.

This grant is the result of an application that was submitted in 2020 for the construction of a Skate Park. Due to the COVID pandemic RCO has been slow to make award. The Original project was estimated at \$418,465. RCO picking up 350,000 and the City will pick up the balance in cash or in kind service.

We estimate the 2022/2023 cost of the projects may be slightly higher and the city would be responsible to see to the completion of the project.

I approve this Resolution and urge it Adoption

**RESOLUTION NO. 58-2022**

**A RESOLUTION OF THE OMAK CITY COUNCIL ACCEPTING A GRANT  
FROM THE WASHINGTON STATE RECREATION AND CONSERVATION  
OFFICE**

**WHEREAS**, the city was selected to receive a Youth Athletic Facilities grant for the construction of a skate park in Eastside Park; and

**WHEREAS**, the grant 20-1712D is administered through the Washington State Recreation and Conservation Office; and

**WHEREAS**, the Skate Park construction cost were estimated during the 2020 application process at \$418,465 of which the RCO grant will fund \$350,000, and

**WHEREAS**, the Skate Project is consistent with the Omak Parks and recreation plan.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Omak that the Washington State Recreation and Conservation Office grant 20-1712D, attached hereto as Exhibit "A", is approved. The Mayor is authorized to execute said application on behalf of the City.

**INTRODUCED AND APPROVED** by the City Council of the City of Omak this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**APPROVED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

**ATTEST:**

\_\_\_\_\_  
Connie Thomas, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael D. Howe, City Attorney

**Project Sponsor:** City of Omak  
**Project Title:** Omak Eastside Park Skatepark Upgrade

**Project Number:** 20-1712D  
**Approval Date:** 06/30/2021

### **PARTIES OF THE AGREEMENT**

This Recreation and Conservation Office Grant Agreement (Agreement) is entered into between the State of Washington by and through the Recreation and Conservation Funding Board (RCFB or funding board) and the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and City of Omak (Sponsor, and primary Sponsor), PO Box 72, Omak, WA 98841, and shall be binding on the agents and all persons acting by or through the parties.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

Prior to and during the Period of Performance, per the Applicant Resolution/Authorizations submitted by all Sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project identified above, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this Agreement on behalf of the Sponsor(s), including indemnification, as provided therein, (3) enter any amendments thereto on behalf of Sponsor(s), and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all Sponsors, unless otherwise allowed in the AMENDMENTS TO AGREEMENT Section.

- A. During the Period of Performance, in order for a Sponsor to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization the Sponsor must provide the RCO a new Applicant Resolution/Authorization signed by its governing body or a written delegation of authority to sign in lieu of originally authorized Representative/Agency(s). Unless a new Applicant Resolution/Authorization has been provided, the RCO shall proceed on the basis that the person who is listed as the Authorized Representative in the last Resolution/Authorization that RCO has received is the person with authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.
- B. Amendments After the Period of Performance. RCO reserves the right to request and Sponsor has the obligation to provide, authorizations and documents that demonstrate any signatory to an amendment has the authority to legally bind the Sponsor as described in the above Sections.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

### **PURPOSE OF AGREEMENT**

This Agreement sets out the terms and conditions by which a grant is made from the State Building Construction Account of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO).

### **DESCRIPTION OF PROJECT**

The City of Omak will use this grant to fund development of a new and greatly-improved skatepark at Eastside Park, including removal of the existing skatepark and construction of the new facility at a better location inside the park. Project work will include demolition of extant end-of-life skatepark structures, planning and preparation of the new site; and installation of an in-ground, concrete and steel skatepark facility; and associated amenities such as entrance sign and landscaping. This upgraded facility will be able to host competitions as well as provide specialized space for practice, training, skill development, and competition preparation for local youth athletes. The primary recreation opportunity provided by this grant project is skateboarding.

### **PERIOD OF PERFORMANCE**

The period of performance begins on September 1, 2021 (project start date) and ends on December 31, 2024 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.

The RCO reserves the right to summarily dismiss any request to amend this Agreement if not made at least 60 days before the project end date.



**STANDARD TERMS AND CONDITIONS INCORPORATED**

The Standard Terms and Conditions of the Recreation and Conservation Office attached hereto are incorporated by reference as part of this Agreement.

**LONG-TERM OBLIGATIONS**

For this development project, the Sponsor's long-term obligations for the project area shall be for 20 years from project completion, or as otherwise provided for in this Agreement, or as approved by the funding board or RCO.

**PROJECT FUNDING**

The total grant award provided for this project shall not exceed \$350,000.00. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	<u>Percentage</u>	<u>Dollar Amount</u>	<u>Source of Funding</u>
<b>RCFB - YAF - Large</b>	83.64%	\$350,000.00	State
<b>Project Sponsor</b>	16.36%	\$68,465.00	
<b>Total Project Cost</b>	100.00%	\$418,465.00	

**RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS**

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved and/or amended as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with the Agreement, such information shall not be used to vary the terms of the Agreement, unless the terms in the Agreement are shown to be subject to an unintended error or omission. "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

**AMENDMENTS TO AGREEMENT**

Except as provided herein, no amendment (including without limitation, deletions) of this Agreement will be effective unless set forth in writing signed by all parties. Exception: extensions of the Period of Performance and minor scope adjustments need only be signed by RCO's director or designee and consented to in writing (including email) by the Sponsor's Authorized Representative/Agent or Sponsor's designated point of contact for the implementation of the Agreement (who may be a person other than the Authorized Agent/Representative), unless otherwise provided for in an amendment. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so.

Unless otherwise expressly stated in an amendment, any amendment to this Agreement shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone. However, any such amendment, unless expressly stated, shall not extend or reduce the long-term obligation term.

**COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES**

This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, Exhibits, and any applicable federal program and accounting rules effective as of the date of this Agreement or as of the effective date of an amendment, unless otherwise provided in the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone unless otherwise expressly stated in the amendment.

For the purpose of this Agreement, WAC Title 286, RCFB policies shall apply as terms of this Agreement.

For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

- Development Projects - Manual 4
- Long Term Obligations - Manual 7
- Reimbursements - Manual 8
- Youth Athletic Facilities - Manual 17

**SPECIAL CONDITIONS**

1. Cultural Resources, Federal Nexus.

This project is occurring within the external boundaries of the Colville Indian Reservation and therefore is subject to the provision found in Section 106 of National Historic Preservation Act of 1966. RCO, acting as lead agency, has completed the initial consultation for this project with Colville Confederated Tribes (CCT) and determined that a cultural resources survey and monitoring of construction is required. RCO will not issue the notice to proceed with construction until the sponsor provides a completed cultural resources survey meeting federal standards and meets all requirements outlined by CCT's Historic Preservation Officer; all cultural resources work must meet reporting guidelines outlined by the CCT and Section 106 of the National Historic Preservation Act.

**AGREEMENT CONTACTS**

The parties will provide all written communications and notices under this Agreement to either or both the mail address and/or the email address listed below:

**Sponsor Project Contact**

Ken Mears  
Public Works Director  
2 N. Ash St.  
Omak, WA 98841  
publicworks@omakcity.com

**RCO Contact**

Brian Carpenter  
Outdoor Grants Manager (OGM)  
PO Box 40917  
Olympia, WA 98504-0917  
Brian.Carpenter@rco.wa.gov

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Unless otherwise provided for in this Agreement, decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

**ENTIRE AGREEMENT**

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

**EFFECTIVE DATE**

Unless otherwise provided for in this Agreement, this Agreement, for Project 20-1712, shall become effective and binding on the date signed by both the sponsor and the RCO's authorized representative, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT. The signatories listed below represent and warrant their authority to bind the parties to this Agreement.

**City of Omak**

**By:** \_\_\_\_\_

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

**Name (printed):** \_\_\_\_\_

**Title:** \_\_\_\_\_

**State of Washington Recreation and Conservation Office**  
**On behalf of the Recreation and Conservation Funding Board (RCFB or funding board)**

**By:** \_\_\_\_\_  
Megan Duffy  
Director  
Recreation and Conservation Office

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

Pre-approved as to form:

**By:** David B. Mendel  
Assistant Attorney General

**Date:** 07/01/2022



**Project Sponsor:** City of Omak  
**Project Title:** Omak Eastside Park Skatepark Upgrade

**Project Number:** 20-1712D  
**Approval Date:** 06/30/2021

## Eligible Scope Activities

### ELIGIBLE SCOPE ACTIVITIES

#### Development Metrics

##### Worksite #1, Omak Eastside Park

##### General Site Improvements

###### Install signs/kiosk

Number of kiosks:	0 new, 0 renovated
Number of interpretive signs/displays:	0 new, 0 renovated
Number of permanent entrance signs:	1 new, 0 renovated
	A permanent entrance for the Skatepark will be designed and erected including credit to funding sources and those making donations.
Number of electronic signs:	0 new, 0 renovated
Project involves installation of informational signs (yes/no):	Yes

###### Landscaping improvements

Acres of landscaped area :	0.15
Select the landscape features:	Drainage, Grass/turf, Irrigation, Trees/shrubs

##### Site Preparation

###### General site preparation

##### Skating Facilities

###### Skatepark development

Number of skate parks:	1 new, 0 renovated
Lighting provided for evening use (yes/no):	No
Select the skate park type:	Combination flat track w/bowls

##### Cultural Resources

###### Cultural resources

##### Permits

###### Obtain permits

##### Architectural & Engineering

###### Architectural & Engineering (A&E)

**Project Sponsor:** City of Omak  
**Project Title:** Omak Eastside Park Skatepark Upgrade

**Project Number:** 20-1712D  
**Approval Date:** 06/30/2021

## Project Milestones

### PROJECT MILESTONE REPORT

Complete	Milestone	Target Date	Comments/Description
X	Design Initiated	09/30/2018	
X	Project Start	09/01/2021	
X	60% Plans to RCO	03/31/2022	
	Applied for Permits	10/31/2022	
	Cultural Resources Complete	11/30/2022	Cultural resources survey required, see Special Condition #1.
	Progress Report Due	12/31/2022	
	Annual Project Billing Due	12/31/2022	Interim billing
	SEPA/NEPA Completed	03/31/2023	
	All Bid Docs/Plans to RCO	04/30/2023	
	Bid Awarded/Contractor Hired	05/31/2023	
	Construction Started	06/30/2023	Archaeological monitoring of construction required, see Special Condition #1.
	Progress Report Due	07/31/2023	
	Annual Project Billing Due	07/31/2023	Interim billing
	Progress Report Due	11/30/2023	
	50% Construction Complete	04/30/2024	
	RCO Interim Inspection	05/31/2024	
	Progress Report Due	06/30/2024	
	Annual Project Billing Due	07/31/2024	Interim billing
	90% Construction Complete	08/31/2024	
	Funding Acknowl Sign Posted	09/15/2024	
	Construction Complete	09/30/2024	
	RCO Final Inspection	10/15/2024	
	Special Conditions Met	10/31/2024	Submit results of archaeological monitoring of construction to RCO, see special condition #1.
	Final Billing Due	11/15/2024	Final billing
	Final Report Due	11/30/2024	
	Agreement End Date	12/31/2024	

**Project Sponsor:** City of Omak  
**Project Title:** Omak Eastside Park Skatepark Upgrade

**Project Number:** 20-1712D  
**Approval Date:** 06/30/2021

## Standard Terms and Conditions of the Recreation and Conservation Office

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## STANDARD TERMS AND CONDITIONS EFFECTIVE DATE

This document sets forth the Standard Terms and Conditions of the Recreation and Conservation Office as of 08/11/2022.

## CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

**Agreement, terms of the Agreement, or project agreement** – The document entitled “RCO GRANT AGREEMENT” accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the RCO Grant Agreement, all exhibits, attachments, addendums, amendments, and applicable manuals, and any intergovernmental agreements, and/or other documents that are incorporated into the Agreement subject to any limitations on their effect under this Agreement.

**applicable manual(s), manual** – A manual designated in this Agreement to apply as terms of this Agreement, subject (if applicable) to substitution of the “RCO director” for the term “board” in those manuals where the project is not approved by or funded by the referenced board, or a predecessor to the board.

**applicable WAC(s)** – Designated chapters or provisions of the Washington Administrative Code that apply by their terms to the type of grant in question or are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the “RCO director” for the term “board” or “agency” in those cases where the RCO has contracted to or been delegated to administer the grant program in question.

**applicant** – Any party, prior to becoming a Sponsor, who meets the qualifying standards/eligibility requirements for the grant application or request for funds in question.

**application** – The documents and other materials that an applicant submits to the RCO to support the applicant's request for grant funds; this includes materials required for the “Application” in the RCO's automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

**Authorized Representative/Agent** – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor's signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

**C.F.R.** – Code of Federal Regulations

**completed project or project completion** – The status of a project when all of the following have occurred:

- The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily.
- A final project report is submitted to and accepted by RCO.
- Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO.
- A final reimbursement request has been delivered to and paid by RCO.
- Documents affecting property rights (including RCO's as may apply) and any applicable notice of grant, have been recorded (as may apply).

**contractor** – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

**conversion** – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

**Cultural Resources** – Archaeological or historic archaeological sites, historic buildings/structures, and cultural or sacred places.

**development project** – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources. A development project may also involve activities that redevelop or renovate an existing facility, and these may occur exclusively in the project or in combination with new construction. For projects in the Boating Facilities Program, the term “development project” includes all of the above and may also include those activities that are defined as maintenance in 50 C.F.R. 86.

**director** – The chief executive officer of the Recreation and Conservation Office or that person’s designee.

**effective date** – The date when the signatures of all parties to this agreement are present in the agreement.

**equipment** – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. Part 200 (as updated)).

**funding board or board** – The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board. Or both as may apply.

**Funding Entity** – the entity that approves the project that is the subject to this Agreement.

**grant program** – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

**long-term compliance period** – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

**long-term obligations** – Sponsor’s obligations after the project end date, as specified in the Agreement and manuals and other exhibits as may apply.

**landowner agreement** – An agreement that is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor.

**match or matching share** – The portion of the total project cost provided by the Sponsor.

**milestone** – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

**Office** – Means the Recreation and Conservation Office or RCO.

**pass-through entity** – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 CFR 200 (as updated)). If this Agreement is a federal subaward, RCO is the pass-through entity.

**period of performance** – The period beginning on the project start date and ending on the project end date.

**pre-agreement cost** – A project cost incurred before the period of performance.

**primary Sponsor** – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. Administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

**project** – The undertaking that is funded by this Agreement either in whole or in part with funds administered by RCO.

**project area** - A geographic area that delineates a grant assisted site which is subject to project agreement requirements.

**project completion or completed project** – The status of a project when all of the following have occurred:

- The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily.
- A final project report is submitted to and accepted by RCO.
- Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO.
- A final reimbursement request has been delivered to and paid by RCO.



- Documents affecting property rights (including RCO's as may apply) and any applicable notice of grant, have been recorded (as may apply).

**project cost** – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. Part 200 (as updated)) for federally funded projects).

**project end date** – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

**project start date** – The specific date identified in the Agreement on which the period of performance starts.

**RCFB** – Recreation and Conservation Funding Board

**RCO** – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

**RCW** – Revised Code of Washington

**reimbursement** – RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

**renovation project** – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

**secondary Sponsor** – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

**Sponsor** – A Sponsor is an organization that is listed in and has signed this Agreement.

**Sponsor Authorized Representative/Agent** – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

**subaward** – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. Part 200 (as updated). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. Part 200 (as updated)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the Project Funding Section.

**subrecipient** – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. Part 200 (as updated)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

**tribal consultation** – Outreach, and consultation with one or more federally recognized tribes (or a partnership or coalition or consortium of such tribes, or a private tribal enterprise) whose rights will or may be significantly affected by the proposed project. This includes sharing with potentially-affected tribes the scope of work in the grant and potential impacts to natural areas, natural resources, and the built environment by the project. It also includes responding to any tribal request from such tribes and considering tribal recommendations for project implementation which may include not proceeding with parts of the project, altering the project concept and design, or relocating the project or not implementing the project, all of which RCO shall have the final approval of.

**useful service life** – Period during which a built asset, equipment, or fixture is expected to be useable for the purpose it was acquired, installed, developed, and/or renovated, or restored per this Agreement.

**WAC** – Washington Administrative Code.



## **PERFORMANCE BY THE SPONSOR**

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO (to include any RCO approved changes or amendments thereto). All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

## **ASSIGNMENT**

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written approval of the RCO. Sponsor shall not sell, give, or otherwise assign to another party any property right, or alter a conveyance (see below) for the project area acquired with this grant without prior approval of the RCO.

## **RESPONSIBILITY FOR PROJECT**

Although RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project has more than one Sponsor, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO, its employees, assigns, consultants and contractors, and members of any funding board or advisory committee or other RCO grant review individual or body, have no responsibility for reviewing, approving, overseeing or supervising design, construction, or safety of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO, its employees, assigns, consultants and contractors, and any funding board or advisory committee or other RCO grant review individual or body will act only to confirm at a general, lay person, and nontechnical level, solely for the purpose of project eligibility and payment and not for safety or suitability, that the project apparently is proceeding or has been completed as per the Agreement.

## **INDEMNIFICATION**

The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents or employees, and (b) the State, or its employees or agents the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or its agents, or employees.

As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51. Sponsor's waiver of immunity under this provision extends only to claims against Sponsor by Indemnitee RCO, and does not include, or extend to, any claims by Sponsor's employees directly against Sponsor.

Sponsor shall ensure that any agreement relating to this project involving any contractors, subcontractors and/or vendors of any tier shall require that the contracting entity indemnify, defend, waive RCW 51 immunity, and otherwise protect the State as provided herein as if it were the Sponsor. This shall not apply to a contractor or subcontractor is solely donating its services to the project without compensation or other substantial consideration.

The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or



communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

### **INDEPENDENT CAPACITY OF THE SPONSOR**

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

### **CONFLICT OF INTEREST**

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

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

### **COMPLIANCE WITH APPLICABLE LAW**

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:

- A. **Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Employment Act (if applicable). In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this project: "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."
- B. **Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
- C. **Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
  - 1) Pursuant to RCW 39.12.040(1)(a), all contractors and subcontractors shall submit to Sponsor a statement of intent to pay prevailing wages if the need to pay prevailing wages is required by law. If a contractor or subcontractor intends to pay other than prevailing wages, it must provide the Sponsor with an affirmative statement of the contractor's or subcontractor's intent. Unless required by law, the Sponsor is not required to investigate a statement regarding prevailing wage provided by a contractor or subcontractor.
  - 2) Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130). If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization



affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.

- D. **Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.
- E. **Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

#### ARCHAEOLOGICAL AND CULTURAL RESOURCES

- A. **Project Review.** RCO facilitates the review of projects for potential impacts to archaeology and cultural resources, except as those listed below. The Sponsor shall follow RCO guidance and directives to assist it with such review as may apply.
  - 1) **Projects occurring on State/Federal Lands:** Archaeological and cultural resources compliance for projects occurring on State or Federal Agency owned or managed lands, will be the responsibility of the respective agency, regardless of sponsoring entity type. Prior to ground disturbing work or alteration of a potentially historic or culturally significant structure, or release of final payments on an acquisition, the Sponsor must provide RCO all documentation acknowledging and demonstrating that the applicable archaeological and cultural resources responsibilities of such state or federal landowner or manager has been conducted.
- B. **Termination.** RCO retains the right to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
- C. **Notice To Proceed.** No work shall commence in the project area until RCO has provided a notice of cultural resources completion. RCO may require on-site monitoring for impacts to archaeology and cultural resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology and cultural resource impacts or concerns. All cultural resources requirements for non ground disturbing projects (such as acquisition or planning projects) must be met prior to final reimbursement.
- D. **Compliance and Indemnification.** At all times, the Sponsor shall take reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic resources in the project area, and comply with any RCO direction for such minimization and mitigation. All federal or state cultural resources requirements under Governor's Executive Order 21-02 and the National Historic Preservation Act, and the State Environmental Policy Act and the National Environmental Policy Act, and any local laws that may apply, must be completed prior to the start of any work on the project site. The Sponsor must agree to indemnify and hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the project funded under this Agreement. Sponsor shall comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.
- E. **Costs associated with project review and evaluation of archeology and cultural resources are eligible for reimbursement under this agreement.** Costs that exceed the budget grant amount shall be the responsibility of the Sponsor Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan, and:
  - 1) Keep the IDP at the project site.
  - 2) Make the IDP readily available to anyone working at the project site.
  - 3) Discuss the IDP with staff and contractors working at the project site.
  - 4) Implement the IDP when cultural resources or human remains are found at the project site.



## F. Discovery

- 1) If any archaeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.
- 2) If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the State provides a new notice to proceed.
  - a) Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP).
  - b) The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

## RECORDS

- A. **Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- B. **Maintenance and Retention.** The Sponsor shall maintain books, records, documents, data and other records relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of nine years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the nine (9) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- C. **Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- D. **Public Records.** Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such record to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

## PROJECT FUNDING

- A. **Authority.** This Agreement and funding is made available to Sponsor through the RCO.
- B. **Additional Amounts.** The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement.
- C. **Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a

waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.

- D. **After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

#### PROJECT REIMBURSEMENTS

- A. **Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, whichever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may request reimbursement only after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor, or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- B. **Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- C. **Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- D. **Conditions for Payment of Retainage.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the following has occurred:
- 1) RCO has accepted the project as a completed project, which acceptance shall not be unreasonably withheld.
  - 2) On-site signs are in place (if applicable); Any other required documents and media are complete and submitted to RCO; Grant related fiscal transactions are complete, and
  - 3) RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

#### RECOVERY OF PAYMENTS

- A. **Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, fails to meet its percentage of the project total, and/or fails to comply with any of the terms and conditions of the Agreement, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. **Return of Overpayments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time the Sponsor received such overpayment. Unless the overpayment is due to an error of RCO, the payment shall be due and owing on the date that the Sponsor receives the overpayment from the RCO. If the payment is due to an error of RCO, it shall be due and owing 30 days after demand by RCO for refund.

#### COVENANT AGAINST CONTINGENT FEES

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement and to be reimbursed by Sponsor for any grant funds paid to Sponsor (even if such funds have been subsequently paid to an agent), without liability to RCO or, in RCO's discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.



## INCOME (AND FEES) AND USE OF INCOME

See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

- A. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.
- B. **Use of Income.** Subject to any limitations contained in applicable state or federal law, any needed approvals of RCO, and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, rent, franchise fees, ecosystem services, carbon offsets sequestration, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
  - 1) The Sponsor's matching resources;
  - 2) The project's total cost;
  - 3) The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
  - 4) The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
  - 5) Capital expenses for similar acquisition and/or development and renovation; and/or
  - 6) Other purposes explicitly approved by RCO or otherwise provided for in this agreement.
- C. **Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:
  - 1) Grant program laws, rules, and applicable manuals;
  - 2) Value of any service(s) furnished;
  - 3) Value of any opportunities furnished; and
  - 4) Prevailing range of public fees in the state for the activity involved.

## PROCUREMENT REQUIREMENTS

- A. **Procurement Requirements.** If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists, the Sponsor must follow these minimum procedures:
  - 1) Publish a notice to the public requesting bids/proposals for the project;
  - 2) Specify in the notice the date for submittal of bids/proposals;
  - 3) Specify in the notice the general procedure and criteria for selection; and
  - 4) Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
  - 5) Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

## TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.

- A. **Discontinued Use.** Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the



equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.

- B. **Loss or Damage.** The Sponsor shall be responsible for any loss or damage to equipment.

#### **RIGHT OF INSPECTION**

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure limits access to the project area, it must include (or be amended to include) the RCO's right to inspect and access lands acquired or developed with this funding assistance.

#### **STEWARDSHIP AND MONITORING**

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

#### **PREFERENCES FOR RESIDENTS**

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

#### **ACKNOWLEDGMENT AND SIGNS**

- A. **Publications.** The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- B. **Signs.**
- 1) During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and
  - 2) During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.
- C. **Ceremonies.** The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies and in all advertisements and mailings thereof, and any and all of its related digital media publications.

#### **PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS**

The following provisions shall be in force:

- A. **Operations and Maintenance.** Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
- B. **Document Review and Approval.** Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if

the RCO guidance would not meet such requirements.

- 1) Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval of the RCO.
- C. **Control and Tenure.** The Sponsor must provide documentation that shows appropriate tenure and term (such as long-term lease, perpetual or long-term easement, or perpetual or long-term fee simple ownership, or landowner agreement or interagency agreement for the land proposed for construction, renovation, or restoration. The documentation must meet current RCO requirements identified in this Agreement as of the effective date of this Agreement unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.
- D. **Use of Best Management Practices.** Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include "Integrated Streambank Protection Guidelines", 2002; "Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery", 2009", "Protecting Nearshore Habitat and Functions in Puget Sound", 2010; "Stream Habitat Restoration Guidelines", 2012; "Water Crossing Design Guidelines", 2013; and "Marine Shoreline Design Guidelines", 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in "Reducing Accidental Introductions of Invasive Species" which is available on the WISC Web site.
- E. At no time shall the Sponsor design, construct, or operate this grant funded project in a way that unreasonably puts the public, itself, or others at risk of injury or property damage. The Sponsor agrees and acknowledges that the Sponsor is solely responsible for safety and risk associated with the project, that RCO does not have expertise, capacity, or a mission to review, monitor, or inspect for safety and risk, that no expectation exists that RCO will do so, and that RCO is in no way responsible for any risks associated with the project.

#### LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS

- A. **Long-Term Obligations.** This section applies to completed projects only.
- B. **Perpetuity.** For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO. The RCO requires that the project area continue to function for the purposes for which these grant funds were approved, in perpetuity.
- C. **Conversion.** The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/ or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property (or a portion of it) to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policies or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon all terms of the Agreement, and all applicable state or federal laws or regulation.
- 1) When a conversion has been determined to have occurred, the Sponsor shall remedy the conversion as set forth in this Agreement (with incorporated documents) and as required by all applicable policies, manuals, WACs and laws that exist at the time the remedy is implemented or the right to the remedy is established by a court or other decision-making body, and the RCO may pursue all remedies as allowed by the Agreement or law.

#### CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force for this agreement:

- A. **Property and facility operation and maintenance.** Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
- 1) According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
  - 2) In a reasonably safe condition for the project's intended use;



- 3) Throughout its estimated useful service life so as to prevent undue deterioration;
  - 4) In compliance with all federal and state nondiscrimination laws, regulations and policies.
- B. Open to the public.** Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:
- 1) Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
  - 2) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
  - 3) Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals or, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

#### **ORDER OF PRECEDENCE**

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

- A. Federal law and binding executive orders;
- B. Code of federal regulations;
- C. Terms and conditions of a grant award to the state from the federal government;
- D. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- E. State Constitution, RCW, and WAC;
- F. Agreement Terms and Conditions and Applicable Manuals;
- G. Applicable deed restrictions, and/or governing documents.

#### **LIMITATION OF AUTHORITY**

Only RCO's Director or RCO's delegate authorized in writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

#### **WAIVER OF DEFAULT**

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

#### **APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH**

The Funding Entity (if different from RCO) and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

#### **SPECIFIC PERFORMANCE**

RCO may, at its discretion, enforce this Agreement by the remedy of specific performance, which means Sponsors' completion of the project and/or its completion of long-term obligations as described in this Agreement. However, the remedy



of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

## **TERMINATION AND SUSPENSION**

The RCO requires strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200 (as updated).

### **A. For Cause.**

- 1) The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
  - a) If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
  - b) If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
  - c) If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
- 2) Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
- 3) RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

**B. For Convenience.** Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

- 1) The Sponsor was not in default; or
- 2) Failure to perform was outside Sponsor's control, fault or negligence.

### **C. Rights and Remedies of the RCO.**

- 1) The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
- 2) In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement due to Sponsor's breach of the Agreement or other violation of law, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent repayment would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

**D. Non Availability of Funds.** The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

- 1) **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean

all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.

- 2) **No Waiver.** The failure or neglect of RCO to require strict compliance with any term of this Agreement or to pursue a remedy provided by this Agreement or by law shall not act as or be construed as a waiver of any right to fully enforce all rights and obligations set forth in this Agreement and in applicable state or federal law and regulations.

## **DISPUTE HEARING**

Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

## **ATTORNEYS' FEES**

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own costs and attorneys' fees.

## **GOVERNING LAW/VENUE**

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in the Superior Court of a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington and agrees to venue as set forth above.

## **SEVERABILITY**

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

## **END OF STANDARD TERMS AND CONDITIONS**

This is the end of the Standard Terms and Conditions of the Agreement.



## MEMORANDUM

To: Omak City Council  
Cindy Gagnè, Mayor

From: Todd McDaniel  
City Administrator

Date: October 3, 2022

Subject: Omak Reservoir Bidding Services JUB

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The **Attached Resolution 59-2022- Approving Task Order No. 70-22-020 To The Contract For Engineering Services With J-U-B Engineers, Inc. For Airport Reservoir Bidding Services**, is forwarded for your consideration.

The Airport Reservoir project is the final phase of the airport water system improvements. The city has partnered with the DNR on the previous phases that installed a well, distribution system, and the design-specifications of the reservoir.

Funding is now available for the construction of the reservoir. The city requires services to update plans, specifications, preparation of contract, and bidding services.

JUB has prepared an agreement that provides services at a cost of \$16,000.

I approve this Resolution and urge it Adoption



**RESOLUTION NO. 59-2022**

**A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING TASK ORDER  
No. 70-22-020 TO THE CONTRACT FOR ENGINEERING SERVICES WITH  
J-U-B ENGINEERS, INC. FOR AIRPORT RESERVOIR BIDDING SERVICES**

**WHEREAS**, the City of Omak engaged the firm of J-U-B Engineers, Inc. to provide professional engineering services for the Omak Airport in 2015 by adoption of Resolution No. 46-2021 on September 28, 2021; and

**WHEREAS**, the engineering services of J-U-B Engineers, Inc. were sought to provide engineering services to update plans and specifications and provide bidding services for the inclusion of a 30,000 gallon reservoir to the newly constructed Airport Water System.

**NOW, THEREFORE BE IT RESOLVED** by the Omak City Council that Task Order No. 70-22-020 to Contract for Engineering Services with J-U-B Engineers, Inc., a copy of which is attached hereto and marked Exhibit "A", is hereby approved, and the Mayor is authorized to execute that document on behalf of the City.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

**SIGNED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Connie Thomas, City Clerk

\_\_\_\_\_  
Michael Howe, City Attorney

**HELPING EACH OTHER**  
CREATE BETTER COMMUNITIES



THE  
LANGDON  
GROUP



GATEWAY  
MAPPING  
INC.

J-U-B FAMILY OF COMPANIES

## TRANSMITTAL LETTER

To: City of Omak  
PO Box 72  
2 N Ash St  
Omak, WA 98841

Date: September 12, 2022  
Project: Omak Airport Water Reservoir  
Project No.: 70-22-020

We are delivering to you:

Agreement via US Mail, the following items:

Copies	Date or No.	Description
1	9-8-2022	Agreement for Professional Services

These items are transmitted as checked below:

- For Approval       As Requested       Returned for Corrections  
 For Your Information       For Review & Comment       For Mayor's signature

Remarks:

Please have the Mayor sign the attached agreement where noted. Once agreement is signed please return an executed copy via email to [bthompson@jub.com](mailto:bthompson@jub.com).

Cc:

Signed: 

If enclosures are not as noted, please notify us.





# J-U-B ENGINEERS, Inc. AGREEMENT FOR PROFESSIONAL SERVICES

J-U-B Project No.: 70-22-020  
J-U-B Project Manager: LLM

This Agreement entered into and effective this 8th day of September 2022, between City of Omak, hereinafter referred to as the "CLIENT" and J-U-B ENGINEERS, Inc., an Idaho corporation, hereinafter referred to as "J-U-B".

### WITNESSETH:

WHEREAS the CLIENT intends to: obtain engineering services for bidding of the Omak Airport Water Reservoir hereinafter referred to as the "Project". The Services to be performed by J-U-B are hereinafter referred to as the "Services."

NOW, THEREFORE, the CLIENT and J-U-B, in consideration of their mutual covenants herein, agree as set forth below:

### CLIENT INFORMATION AND RESPONSIBILITIES

The CLIENT will provide to J-U-B all criteria and full information as to CLIENT's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards, rules and laws which CLIENT or others will require to be included in the drawings and specifications, and upon which J-U-B can rely for completeness and accuracy.

The CLIENT will furnish to J-U-B all data, documents, and other items in CLIENT's possession, or reasonably obtainable by CLIENT, including, without limitation: 1) borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; 2) appropriate professional interpretations of all of the foregoing; 3) environmental assessment and impact statements; 4) surveys of record, property descriptions, zoning, deeds and other land use restrictions, rules and laws; and 5) other special data or consultations, all of which J-U-B may use and rely upon in performing Services under this Agreement.

The CLIENT will obtain, arrange and pay for all advertisements for bids, permits and licenses, and similar fees and charges required by authorities, and provide all land, easements, rights-of-ways and access necessary for J-U-B's Services and the Project.

In addition, the CLIENT will furnish to J-U-B those items described in **Attachment 1**.

### PROJECT REPRESENTATIVES

The CLIENT and J-U-B hereby designate their authorized representatives to act on their behalf with respect to the Services and responsibilities under this Agreement. The following designated representatives are authorized to receive notices, transmit information, and make decisions regarding the Project and Services on behalf of their respective parties, except as expressly limited herein. These representatives are not authorized to alter or modify the TERMS AND CONDITIONS of this Agreement.

#### For the CLIENT:

1.	Name	<u>Todd McDaniel</u>	Work telephone	<u>509-826-1170</u>
	Address	<u>PO Box 72</u>	Home/cell phone	<u></u>
		<u>2 North Ash St.</u>	FAX telephone	<u></u>
		<u>Omak, WA 98841</u>	E-mail address	<u>admin@omakcity.com</u>

#### For J-U-B:

1.	Name	<u>Alex DelRiccio, P.E.</u>	Work telephone	<u>509-458-3727</u>
	Address	<u>422 W. Riverside Ave.</u>	Cell phone	<u>509-590-8955</u>
		<u>Suite 304</u>	FAX telephone	<u></u>
		<u>Spokane, WA 99201</u>	E-mail address	<u>aad@jub.com</u>

In the event any changes are made to the authorized representatives or other information listed above, the CLIENT and J-U-B agree to furnish each other timely, written notice of such changes.



**SERVICES TO BE PERFORMED BY J-U-B ("Services")**

J-U-B will perform the Services described in **Attachment 1** in a manner consistent with the applicable standard of care. J-U-B's services shall be limited to those expressly set forth therein, and J-U-B shall have no other obligations, duties, or responsibilities for the Project except as provided in this Agreement.

**SCHEDULE OF SERVICES TO BE PERFORMED**

J-U-B will perform said Services in accordance with the schedule described in **Attachment 1** in a manner consistent with the applicable standard of care. This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by the CLIENT or for delays or other causes beyond J-U-B's control.

**BASIS OF FEE**

The CLIENT will pay J-U-B for their Services and reimbursable expenses as described in **Attachment 1**. A ten percent administrative fee will be applied to sub-consultant invoices.

Other work that J-U-B performs in relation to the Project at the written request or acquiescence of the CLIENT, which are not defined as Services, shall be considered "Additional Services" and subject to the express terms and conditions of this Agreement. Unless otherwise agreed, the CLIENT will pay J-U-B for Additional Services on a time and materials basis. Resetting of survey and/or construction stakes shall constitute Additional Services.

File Folder Title:     **Omak Airport Water Reservoir**    

Remarks: \_\_\_\_\_

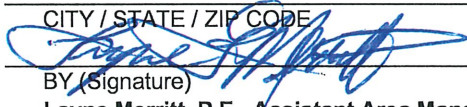
**The Notice to Proceed, by the CLIENT, verbal or written, or execution of the Agreement shall constitute acceptance of the terms of this Agreement. THE TERMS AND CONDITIONS ON PAGES 3 AND 4, INCLUDING RISK ALLOCATION, ARE PART OF THIS AGREEMENT. THE CLIENT AGREES TO SAID TERMS AND CONDITIONS FOR ALL SERVICES AND ADDITIONAL SERVICES. Special Provisions that modify these TERMS AND CONDITIONS, if any, are included in Attachment 2. All other modifications to these terms and conditions must be in writing and signed by both parties.**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written. These parties represent and acknowledge that they have authority to execute this Agreement.

**CLIENT:**  
**City of Omak**

**J-U-B ENGINEERS, Inc.:**  
**422 W. Riverside Ave. Suite 304**

\_\_\_\_\_  
NAME  
**PO Box 72**  
\_\_\_\_\_  
STREET  
**Omak, WA98841**  
\_\_\_\_\_  
CITY / STATE / ZIP CODE

\_\_\_\_\_  
STREET  
**Spokane, WA 99201**  
\_\_\_\_\_  
CITY / STATE / ZIP CODE  
  
\_\_\_\_\_  
BY (Signature)

**Layne Merritt, P.E., Assistant Area Manager**

\_\_\_\_\_  
BY (Signature)  
**Cindy Gagne, Mayor**

NAME / TITLE

- Applicable Attachments or Exhibits to this Agreement are indicated as marked.*
- Attachment 1** – Scope of Services, Schedule, and Basis of Fee
  - Attachment 2** – Special Provisions
  - Standard Exhibit A** – Construction Phase Services

\_\_\_\_\_  
NAME / TITLE

\_\_\_\_\_  
BY (Signature)

\_\_\_\_\_  
ADDITIONAL NAME / TITLE

REV: 5/20

**DISTRIBUTION: Accounting; Project File; CLIENT**



**J-U-B ENGINEERS, Inc.**  
**TERMS AND CONDITIONS**

**GENERAL**

All J-U-B Services shall be covered by this Agreement. The Services will be performed in accordance with the care and skill ordinarily used by members of the subject profession practicing under like circumstances at the same time and in the same locality. **J-U-B MAKES NO WARRANTY EITHER EXPRESS OR IMPLIED ON BEHALF OF IT OR OTHERS.** Nothing herein shall create a fiduciary duty between the parties.

The CLIENT acknowledges and agrees that requirements governing the Project may be ambiguous and otherwise subject to various and possibly contradictory interpretations and J-U-B is, therefore, only responsible to use its reasonable professional efforts and judgment to interpret such requirements. Accordingly, CLIENT should prepare and plan for clarifications or modifications which may impact both the cost and schedule of the Project.

J-U-B shall not be responsible for acts or omissions of any other party involved in the Project, including but not limited to the following: the failure of CLIENT or a third party to follow J-U-B's recommendations; the means, methods, techniques, sequences or procedures of construction; safety programs and precautions selected by third parties; compliance by CLIENT or third parties with laws, rules, regulations, ordinances, codes, orders or authority; and delays caused by CLIENT or third parties; CLIENT, therefore, releases and shall indemnify, defend and hold J-U-B harmless from the acts, errors, or omissions of CLIENT or third parties involved in the Project.

J-U-B shall not be required to execute any documents, no matter by whom requested, that would result in J-U-B's having to certify, guarantee or warrant the existence of conditions. CLIENT acknowledges that subsurface conditions can vary widely between adjacent samples and test points, and therefore J-U-B makes no warranty or other representation regarding soil investigations and characterization of subsurface conditions for the Project.

Any sales tax or other tax on the Services rendered under this Agreement, additional costs due to changes in regulation, and fees for credit card payment transactions shall be paid by the CLIENT.

CLIENT grants J-U-B and its subsidiaries the unrestricted right to take, use, and publish images, or edited images, of the project site and workers for J-U-B's purposes including, but not limited to, website, intranet, and marketing. This right shall survive the termination of this Agreement.

**REUSE OF DOCUMENTS**

Documents that may be relied upon by CLIENT as instruments of service under this Agreement are limited to the printed copies (also known as hard copies) that are signed or sealed by J-U-B (including non-vector PDF facsimiles thereof). All printed materials or other communication or information ("Documents") that may be prepared or furnished by J-U-B pursuant to this Agreement are instruments of service with respect to the Project. J-U-B grants CLIENT a limited license to use the Documents on the Project subject to receipt by J-U-B of full payment for all Services related to preparation of the Documents.

Although CLIENT may make and retain copies of Documents for reference, J-U-B shall retain all common law, statutory and other reserved rights, including the copyright thereto, and the same shall not be reused on this Project or any other Project without J-U-B's prior written consent. Submission or distribution of Documents to meet regulatory or permitting requirements, or for similar purposes, in connection with the Project, including but not limited to distribution to contractors or subcontractors for the performance of their work, is not to be construed as publication adversely affecting the reserved rights of J-U-B.

Any reuse without written consent by J-U-B, or without verification or adoption by J-U-B for the specific purpose intended by the reuse, will be at CLIENT's sole risk and without liability or legal exposure to J-U-B. The CLIENT shall release, defend, indemnify, and hold J-U-B harmless from any claims, damages, actions or causes of action, losses, and expenses, including reasonable attorneys' and expert fees, arising out of or resulting from such reuse.

**CONSTRUCTION PHASE SERVICES**

It is understood and agreed that J-U-B does not have control over, and neither the professional activities of J-U-B nor the presence of J-U-B at the Project Site shall give, J-U-B control over contractor(s) work nor shall J-U-B have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by contractor(s), for safety precautions and programs incident to the work of the contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor(s)

furnishing and performing their work or providing any health and safety precautions required by any regulatory agencies. Accordingly, J-U-B does not guarantee or warrant the performance of the construction contracts by contractor(s), nor assume responsibility of contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

The CLIENT agrees that the general contractor shall be solely responsible for jobsite safety, and CLIENT agrees that this intent shall be set forth in the CLIENT's contract with the general contractor. The CLIENT also agrees that the CLIENT, J-U-B, and J-U-B's subconsultants shall be indemnified by the general contractor in the event of general contractor's failure to assure jobsite safety and shall be made additional insureds under the general contractor's policies of general liability insurance.

**NOTE on Coronavirus:** The contractor and contractor's COVID-19 Site Supervisor are responsible for full monitoring, compliance, and enforcement of the contractor's plan. J-U-B's review or other actions related to the contractor COVID-19 plan do not extend to the means, methods, techniques, sequences, or procedures of construction or to the safety precautions and programs incident thereto.

If **Standard Exhibit A** – Construction Phase Services is attached, the additional terms contained therein apply to this Agreement.

**OPINIONS OF COST AND PROJECT FINANCIAL INFORMATION**

CLIENT understands that J-U-B has no control over the cost of labor, materials, equipment or services furnished by others, the contractor(s)' methods of determining prices, nor bidding or market conditions. J-U-B's opinions of probable Project costs and construction, if any, are to be made on the basis of J-U-B's experience, and represent J-U-B's best judgment as a professional engineer, familiar with the construction industry.

CLIENT understands and acknowledges that J-U-B cannot and does not guarantee that proposals, bids or actual Project or construction costs will not vary from opinions of probable cost prepared by J-U-B. J-U-B's Services to modify the Project to bring the construction costs within any limitation established by the CLIENT will be considered Additional Services and paid for as such by the CLIENT in accordance with the terms herein.

CLIENT agrees that J-U-B is not acting as a financial advisor to the CLIENT and does not owe CLIENT or any third party a fiduciary duty pursuant to Section 15B of the Exchange Act with respect to J-U-B's professional Services. J-U-B will not give advice or make specific recommendations regarding municipal securities or investments and is therefore exempt from registration with the SEC under the municipal advisors rule. CLIENT agrees to retain a registered financial municipal advisor as appropriate for Project financing and implementation.

**TIMES OF PAYMENTS**

J-U-B shall submit monthly statements for Services rendered and for expenses incurred, which statements are due on presentation. CLIENT shall make prompt monthly payments. If CLIENT fails to make any payment in full within thirty (30) days after receipt of J-U-B's statement, the amounts due J-U-B will accrue interest at the rate of 1% per month from said thirtieth day or at the maximum interest rate allowed by law, whichever is less.

If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, J-U-B may suspend performance of Services upon five (5) days' notice to the CLIENT. J-U-B shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension caused by any breach of the Agreement by the CLIENT. Upon cure of breach or payment in full by the CLIENT within thirty (30) days of the date breach occurred or payment is due, J-U-B shall resume Services under the Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension, plus any other reasonable time and expense necessary for J-U-B to resume performance. If the CLIENT fails to make payment as provided herein and cure any other breach of this Agreement within thirty (30) days after suspension of Services, such failure shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by J-U-B.

CLIENT shall promptly review J-U-B's invoices and shall notify J-U-B in writing of any dispute with said invoice, or portion thereof, within thirty (30) days of receipt. Failure to provide notice to J-U-B of any dispute as required herein shall constitute a waiver of any such dispute. CLIENT shall pay all undisputed portions of such invoice as required by this Agreement. Client shall not withhold any payment or portion thereof as an offset to any current or prospective claim.



## **TERMINATION**

The obligation to provide further Services under the Agreement may be terminated by either party upon thirty (30) days' written notice. If this Agreement is terminated by either party, J-U-B will be paid for Services and Additional Services rendered and for expenses incurred. In addition to any other remedies at law or equity, if the Agreement is terminated by the CLIENT for reasons other than J-U-B's material breach of this Agreement, or is terminated by J-U-B for CLIENT's material breach of this Agreement, J-U-B shall be paid a termination fee which shall include: the cost and expense J-U-B incurs in withdrawing its labor and resources from the Project, the costs and expense incurred by J-U-B to obtain and engage in a new Project with the labor and resources withdrawn from the Project, and the lost profit on the remainder of the work.

## **RISK ALLOCATION**

In recognition and equitable allocation of relative risks and benefits of the Project, CLIENT limits the total aggregate liability of J-U-B and its employees and consultants, whether in tort or in contract, for any cause of action, as follows: 1) for insured liabilities, to the amount of insurance then available to fund any settlement, award, or verdict, or 2) if no such insurance coverage is held or available with respect to the cause of action, twenty five thousand dollars (\$25,000.00) or one hundred percent (100%) of the fee paid to J-U-B under this Agreement, whichever is less. J-U-B carries professional liability insurance and will provide a certificate of insurance at the request of the CLIENT. For purposes of this section, attorney fees, expert fees and other costs incurred by J-U-B, its employees, consultants, insurance carriers in the defense of such claim shall be included in calculating the total aggregate liability.

The CLIENT agrees that J-U-B is not responsible for damages arising directly or indirectly from any delays for causes beyond J-U-B's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; emergencies or acts of God; failure of any government agency or other third party to act in a timely manner; failure of performance by the CLIENT or the CLIENT's contractors or consultants; or discovery of any hazardous substance or differing site conditions. In addition, if the delays resulting from any such causes increase the cost or time required by J-U-B to perform its Services in an orderly and efficient manner, J-U-B shall be entitled to an equitable adjustment in schedule and compensation.

Notwithstanding any other provision contained within this Agreement, nothing shall be construed so as to void, vitiate, or adversely affect any insurance coverage held by either party to this Agreement. The CLIENT further agrees that, to the fullest extent permitted by law, no shareholder, officer, director, or employee of J-U-B shall have personal liability under this Agreement, or for any matter in connection with the professional services provided in connection with the Project.

Neither CLIENT nor J-U-B shall be responsible for incidental, indirect, or consequential damages.

## **HAZARDOUS WASTE, ASBESTOS, AND TOXIC MATERIALS**

The CLIENT agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless J-U-B, its officers, employees, successors, partners, heirs and assigns (collectively, J-U-B) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project location, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of J-U-B.

## **RIGHT OF ENTRY**

The CLIENT shall provide J-U-B adequate and timely access to all property reasonably necessary to the performance of J-U-B and its subconsultant's services. The CLIENT understands that use of testing or other equipment may unavoidably cause some damage, the correction of which, or compensation for, is expressly disclaimed by J-U-B. Any such costs incurred are CLIENT's sole responsibility.

## **MEDIATION BEFORE LITIGATION**

Any and all disputes arising out of or related to the Agreement, except for the payment of J-U-B's fees, shall be submitted to nonbinding mediation before a mutually-acceptable mediator as a condition precedent to litigation or other binding adjudicative procedure unless the parties mutually agree otherwise. The CLIENT further agrees to include a similar mediation provision in all agreements with independent contractors,

consultants, subcontractors, subconsultants, suppliers and fabricators on the Project, thereby providing for mediation as the primary method for dispute resolution among all the parties involved in the Project. In the event the parties are unable to agree on a mediator, said mediator shall be appointed by a court of competent jurisdiction or, if not possible, the American Arbitration Association. If a dispute relates to, or is the subject of a lien arising out of J-U-B's Services, J-U-B or its subconsultants may proceed in accordance with applicable law to comply with the lien notice and filing deadlines prior to submission of the matter by mediation.

## **LIMITATION PERIODS**

For statutes of limitation or repose purposes, any and all CLIENT claims shall be deemed to have accrued no later than the date of substantial completion of J-U-B's Services.

## **LEGAL FEES**

For any action arising out of or relating to this Agreement, the Services, or the Project, each party shall bear its own attorneys fees and costs.

## **SURVIVAL**

All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

## **EXTENT OF AGREEMENT**

In entering into this Agreement, neither party has relied upon any statement, estimate, forecast, projection, representation, warranty, action, or agreement of the other party except for those expressly contained in this Agreement. CLIENT shall include a similar provision in its contracts with any contractor, subcontractor, or consultant stating that any such contractor, subcontractor, or consultant is not relying upon any statement, estimate, forecast, projection, representation, warranty, action, or agreement of J-U-B when entering into its agreement with CLIENT.

This Agreement represents the entire and integrated agreement between the CLIENT and J-U-B and supersedes all prior negotiations, representations or agreements, either written or oral. The Agreement may be amended only by written instrument signed by both CLIENT and J-U-B.

In the event any provision herein or portion thereof is invalid or unenforceable, the remaining provisions shall remain valid and enforceable. Waiver or a breach of any provision is not a waiver of a subsequent breach of the same of any other provision.

## **SUCCESSORS AND ASSIGNS**

Neither party shall assign, sublet, or transfer any rights or interest (including, without limitation, moneys that are due or may become due) or claims under this Agreement without the prior, express, written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated in any written consent to an assignment, no assignment will release the assignor from any obligations under this Agreement.

No third party beneficiary rights are intended or created under this Agreement, nor does this Agreement create any cause of action in favor of any third party hereto. J-U-B's Services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against J-U-B because of this Agreement or the performance or nonperformance of Services hereunder. In the event of such third party claim, CLIENT agrees to indemnify and hold J-U-B harmless from the same. The CLIENT agrees to require a similar provision in all contracts with contractors, subcontractors, consultants, vendors and other entities involved in the Project to carry out the intent of this provision to make express to third parties that they are not third party beneficiaries.

## **CONTROLLING LAW, JURISDICTION, AND VENUE**

This Agreement shall be interpreted and enforced in and according to the laws of the state in which the Project is primarily located. Venue of any dispute resolution process arising out of or related to this Agreement shall be in the state in which the Project is primarily located and subject to the exclusive jurisdiction of said state.





J-U-B ENGINEERS, INC.

J-U-B ENGINEERS, Inc.  
AGREEMENT FOR PROFESSIONAL SERVICES

Attachment 1 – Scope of Services, Basis of Fee, and Schedule

PROJECT NAME: Omak Airport Water Reservoir Bidding Phase

CLIENT: City of Omak

J-U-B PROJECT NUMBER: 70-22-020

CLIENT PROJECT NUMBER:

ATTACHMENT TO:

AGREEMENT DATED: 9/8/2022; or

AUTHORIZATION FOR ADDITIONAL SERVICES #; DATED:

The referenced Agreement for Professional Services executed between J-U-B ENGINEERS, Inc. (J-U-B) and the CLIENT is amended and supplemented to include the following provisions regarding the Scope of Services, Basis of Fee, and/or Schedule:

**PART 1 - PROJECT UNDERSTANDING**

J-U-B's understanding of this project's history and CLIENT's general intent and scope of the project are described as follows:

The City of Omak wishes to obtain engineering services for bidding of the Omak Airport Water Reservoir.

**PART 2 - SCOPE OF SERVICES BY J-U-B**

J-U-B's Services under this Agreement are limited to the following tasks.

**A. Task 001: Project Management**

1. Set up project into J-U-B's financial and record keeping systems for document retention and project controls.
2. Conduct project planning and risk assessment.
3. Communicate and coordinate subconsultant activities under J-U-B, if necessary.
4. Provide a monthly invoice including budget status.
5. Provide ongoing document handling and filing.

**B. Task 002: Final Bidding Documents**

1. For this task, J-U-B will:
  - a. Finalize drawings and construction specifications for solicitation of Bids.
  - b. Assumptions:
    - i. Documents will incorporate the provisions of the 2022 Infrastructure Assistance Projects Program Guidelines from the Washington State Department of Commerce.
  - c. Deliverables:
    - i. Bidding Documents

**C. Task 003: Bidding and Award**

1. For this task, J-U-B will:
  - a. Prepare a bid advertisement for CLIENT to publish.
  - b. Prepare electronic Bidding Documents for distribution to potential bidders through Quest CDN. Hard copies of the Bidding Documents will only be prepared for CLIENT and agencies.
  - c. Email potential bidders to notify them of the project advertisement.

- d. Receive and answer questions from bidders arising during the bidding period. A 14-day bidding period is assumed for this project.
  - e. Prepare and issue addenda as necessary to clarify or amend provisions in the Bidding Documents. A total of two addenda are assumed for budgeting purposes.
  - f. Conduct a pre-bid conference at the project site. Questions arising from the pre-bid conference will be addressed through an addendum as necessary.
  - g. Assist the CLIENT at a bid opening at the CLIENT's premises. Review the bids received for general conformance with the bid requirements.
  - h. Prepare a summary letter of the bid results for CLIENT's and CLIENT's legal counsel review. Discuss the bids and available budget with CLIENT. Based on CLIENT input, prepare draft award documents for CLIENT's use in making a formal award to the successful bidder. In the event all bids are rejected and CLIENT decides to rebid the project in whole or in part, the work associated with redesigning, repacking, and / or rebidding shall be considered an Additional Service
2. Assumptions:
- i. Publication costs for bid advertisement will be paid by CLIENT.
3. Deliverables:
- i. Bid tabulation
  - ii. Recommendation to Award

### **PART 3 - BASIS OF FEE AND SCHEDULE OF SERVICES**

- A. CLIENT shall pay J-U-B for the identified Services in PART 2 as follows:
- 1. For Time and Materials fees:
    - a. For all services performed on the project, Client shall pay J-U-B an amount equal to the cumulative hours charged to the Project by each class of J-U-B's personnel times J-U-B's standard billing rates.
    - b. Client shall pay J-U-B for J-U-B's Consultants' charges times a multiplier of 1.1.
  - 2. J-U-B may alter the distribution of compensation between individual tasks to be consistent with services actually rendered while not exceeding the total project amount.
- B. **Period of Services**
- 1. If the planned period of service for the Tasks identified above extend more than one year, J-U-B's billing rates and/or fees for remaining Tasks may be increased to account for direct labor cost, rate table adjustments, or other inflationary increases. If that occurs, an adjustment to the billing rates and/or Fee will be computed based on remaining scope amount times the specific rate increase.
  - 2. If the period of service for the Tasks identified above is extended beyond 6 months or if the Project has stop/start iterations, the compensation amount for J-U-B's services may be appropriately adjusted to account for salary adjustments, extended duration of project management and administrative services, and/or costs related to stop/start cycles including necessary monitoring and communication efforts during inactive periods.
- C. CLIENT acknowledges that J-U-B will not be responsible for impacts to the schedule by actions of others over which J-U-B has no control.
- D. The following table summarizes the fees and anticipated schedule for the services identified in PART 2.

Task Number	Task Name	Fee Type	Amount	Anticipated Schedule
001	Project Management	Time and Materials (Estimated Amount Shown)	\$1,300	Concurrent with work progress
002	Final Bidding Documents	Time and Materials (Estimated Amount Shown)	\$5,800	Concurrent with work progress
003	Bidding and Award	Time and Materials (Estimated Amount Shown)	\$9,000	Concurrent with work progress
<b>Total:</b>			<b>\$16,100</b>	

***NOTE on Coronavirus and Schedule:** J-U-B is committed to meeting your project schedule commitments as delineated above. As our response to the COVID-19 pandemic, J-U-B is engaging in safety procedures in help to protect clients, staff, their families, and the public. Our staff or offices may be subject to quarantine or other interruptions. Since COVID-19 impacts are beyond J-U-B's control, we are not responsible for the force majeure impacts to delivery timelines, or subsequent project delays and related claims, costs, or damages. Should circumstances related to the COVID-19 issue arise with J-U-B staff or in a J-U-B office that will impact our delivery schedule, we will notify you of the circumstances and mutually agree to a schedule adjustment.*

E. The above fees were developed from the Work Breakdown Structure (WBS) attached as Exhibit 1-B.

**Exhibit(s):**

- Exhibit 1-B: Work Breakdown Structure

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*For internal J-U-B use only:*

PROJECT LOCATION (STATE): Washington

TYPE OF WORK: City

R&D: No

GROUP: Water/Wastewater

PROJECT DESCRIPTION(S):

1. Water Supply/Distribution (W03)
2. Municipal/Utility Engineering (203)



# EXHIBIT 1-B: WORK BREAKDOWN STRUCTURE

## BASIS OF FEE ESTIMATE



**Project Title, Client:**

Omak Airport Water Reservoir Bidding Phase, City of Omak

**Project Number:**

70-22-020

**Prepared By:**

AAD

Task Number	Subtask Number	Task/Subtask Name / Activity Description	Project Manager	Project Engineer - Lead	Project Engineer II	Senior Administrative Support	PFA - Senior	J-U-B Expenses	Subconsultant Expenses	Total Compensation
<b>010</b>		<b>Project Management</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,300</b>
<b>010</b>	<b>001</b>	<b>Project Management</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,300</b>
		Set up project in Vision						\$0	\$0	\$0
		Communicate and coordinate J-U-B team activities		2				\$0	\$0	\$400
		Communicate and coordinate subconsultant activities		1				\$0	\$0	\$200
		Monthly invoicing					1	\$0	\$0	\$100
		Ongoing document handling and filing		2			2	\$0	\$0	\$600
<b>020</b>		<b>Final Bidding Documents</b>	<b>0</b>	<b>12</b>	<b>12</b>	<b>0</b>	<b>12</b>	<b>\$0</b>	<b>\$0</b>	<b>\$5,800</b>
<b>020</b>	<b>001</b>	<b>Final Bidding Documents</b>	<b>0</b>	<b>12</b>	<b>12</b>	<b>0</b>	<b>12</b>	<b>\$0</b>	<b>\$0</b>	<b>\$5,800</b>
		Finalize Drawings and Construction Specifications for solicitation of Bids		12	12		12	\$0	\$0	\$5,800
<b>030</b>		<b>Bidding and Award</b>	<b>0</b>	<b>28</b>	<b>17</b>	<b>5</b>	<b>2</b>	<b>\$0</b>	<b>\$0</b>	<b>\$9,000</b>
<b>030</b>	<b>001</b>	<b>Bidding and Award</b>	<b>0</b>	<b>28</b>	<b>17</b>	<b>5</b>	<b>2</b>	<b>\$0</b>	<b>\$0</b>	<b>\$9,000</b>
		Prepare a bid advertisement for CLIENT to publish		1		1		\$0	\$0	\$300
		Prepare electronic Bidding Documents for distribution to potential bidders through Quest CDN.			4		2	\$0	\$0	\$900
		Receive and answer questions from bidders arising during the bidding period.		8	10	1		\$0	\$0	\$3,400
		Prepare and issue addenda as necessary to clarify or amend provisions in the Bidding Documents.		1	1	1		\$0	\$0	\$400
		Conduct a pre-bid conference at the project site. Questions arising from the pre-bid conference will be addressed through an addendum as necessary		10				\$0	\$0	\$1,900
		Assist the CLIENT at a bid opening at the CLIENT's premises. Review the bids received for general conformance with the bid requirements		8		2		\$0	\$0	\$1,700
		Prepare a summary letter of the bid results for CLIENT's and CLIENT's legal counsel review. Discuss the bids and available budget with CLIENT.			2			\$0	\$0	\$400
	<b>Total Hours</b>		<b>0</b>	<b>45</b>	<b>29</b>	<b>5</b>	<b>17</b>			
	<b>Total Costs</b>		<b>\$0</b>	<b>\$8,600</b>	<b>\$5,200</b>	<b>\$400</b>	<b>\$1,900</b>	<b>\$0</b>	<b>\$0</b>	<b>\$16,100</b>

## MEMORANDUM

To: Omak City Council  
Cindy Gagnè, Mayor

From: Todd McDaniel  
City Administrator

Date: October 3, 2022

Subject: Guaranteeing funds for the Airport Reservoir Project.

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The **Attached Resolution 60-2022-Guaranteeing Funding For the Construction of The Omak Airport Reservoir**, is forwarded for your consideration.

The Airport Reservoirs project has been funded through a \$4,250,000 Capital Grant. Project design and specifications were assembled in 2021 estimating the project costs at \$4.3 million. Delays in funding and recent inflation has changed 2023 estimated projects to \$5.6-\$5.9 million.

To leverage the Capital grant the city needs to guarantee project cost that exceed the grant amount. I am actively seeking additional funding to make this project whole. DNR has a request into the 2023 state budget, I will be applying for a CARB loan, and county .09 money is being sought. None of these funds are guaranteed, but I am confident I will be successful in obtaining the needed funds. Until the time that additional funds are available the guaranteed funds for the completion of the project would be committed from city reserves.

The DNR is actively working to build a year-round facility at the Airport. They have included a request into the 2023 State Budget for the \$20m facility and \$1.5 for the Reservoir. Their project cannot advance without an Airport Reservoir.

I approve this Resolution and urge it Adoption



**RESOLUTION NO. 60-2022**

**A RESOLUTION OF THE CITY OF OMAK GUARANTEEING FUNDING FOR  
THE CONSTRUCTION OF THE OMAK AIRPORT RESERVOIR**

**WHEREAS**, Plans, specifications, and bid document are prepared for advertisement of the Omak Airport reservoir project; and

**WHEREAS**, engineer's project cost estimates are between \$5.6 and \$5.9 million for the construction of this project; and

**WHEREAS**, the project has been appropriated \$4,250,000 in the 2022 State Capital Budget, administered through the Department of Commerce, grant number 22-96515-022; and

**WHEREAS**, the Department of Natural Resources has a request into the 2023 State Budget for Improvements at the Omak Airport that includes \$1.5 million dollars to fully fund the reservoir project, and

**WHEREAS**, actual 2023 State Budget appropriations are unknown and alternate sources of funding option are being considered, and

**WHEREAS**, the 2022 State grant as administered by the Department of Commerce requires the City of Omak to guarantee all additional funds necessary to complete the Omak Reservoir Project in its entirety.

**NOW, THEREFORE BE IT RESOLVED**, the Omak City Council, supports the Omak Airport Reservoir project, and guarantees all necessary funds, for the completion of this project.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

**SIGNED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Connie Thomas, City Clerk

\_\_\_\_\_  
Michael Howe, City Attorney





# Omak Police Department

8 N. Ash, P.O. Box 72, Omak, WA 98841 • (509) 826-0383 • FAX 826-0116

DANIEL J. CHRISTENSEN  
Chief of Police

---

## Memorandum

Date: October 3<sup>rd</sup>, 2022

To: Omak City Council, Omak Mayor Gagné

From: Chief Daniel Christensen

Subject: Resolution Number 61-2022

I am requesting support and approval for the approval of the Interlocal Cooperation Agreement between Okanogan County and the City of Omak for our participation and use of the North Central Washington Special Response Team (NCWSRT).

The City of Omak participates with and has members assigned to the NCWSRT. The teams purpose and objectives align with the mission of the Omak Police Department in critical incidents that exceed resources, equipment, and tactics. Our ability to call upon and utilize the special response resources is critical to our mission. Collectively the team provides at times a necessary resource for our City and we provide resources and personnel to compose a team capable of assisting other entities within Okanogan County and possibly outside of Okanogan County under Washington State Mutual Aid agreements, RCW 38.56.

Respectfully submitted  
Chief Christensen

**RESOLUTION NO. 61-2022**

**OPERATIONAL AGREEMENT BETWEEN  
THE OKANOGAN SHERIFF NORTH CENTRAL WASHINGTON SPECIAL  
RESPONSE TEAM  
AND THE CITY OF OMAK FOR 2022**

**THE CITY COUNCIL OF THE CITY OF OMAK**, Washington do hereby resolve that the INTERLOCAL COOPERATION AGREEMENT FOR SERVICES OF THE NORTH CENTRAL WASHINGTON SPECIAL RESPONSE TEAM, between the **CITY OF OMAK**, a municipal corporation, and **NORTH CENTRAL WASHINGTON SPECIAL RESPONSE TEAM**, (NCWSRT) effective from October 3, 2022 until revoked, is attached as Exhibit "A", and the Mayor is hereby authorized and directed to execute the same for and on behalf of the CITY; and the City Clerk is authorized and directed to attest her signature.

**INTRODUCED AND PASSED** this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

**SIGNED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

**ATTEST:**

\_\_\_\_\_  
Connie Thomas, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael Howe, City Attorney



# EXHIBIT A

## INTERLOCAL COOPERATION AGREEMENT BETWEEN

### OKANOGAN COUNTY, WASHINGTON AND THE CITY OF OMAK,

### FOR SERVICES OF THE NORTH CENTRAL WASHINGTON SPECIAL RESPONSE TEAM (NCWSRT)

THIS AGREEMENT is made and entered into on this day by and between the County of Okanogan, Washington, hereinafter referred to as "County," and the City of Omak, Washington, hereinafter referred to as "City," each party having been duly organized and now existing under the laws of the State of Washington.

#### WITNESSETH:

**WHEREAS**, RCW 39.34 and other Washington law, as amended, authorizes any county to contract to perform any governmental service, activity, or undertaking which each contracting jurisdiction as authorized by law to perform; and

**WHEREAS**, it is necessary that the police resources and facilities of the above-named public agencies be made available to create a Special Response Team to provide a highly trained and skilled tactical team as a resource for Okanogan County law enforcement agencies and other contracted agencies in the handling of critical incidents, to include but not necessarily be limited to the following: hostage situations, barricade situations, sniper situations, high risk apprehension, high risk warrant service, and the personal protection and security of certain individuals; and

**WHEREAS**, A multi-jurisdictional unit was established to effectively and decisively counter increasing occurrences of violent confrontations between police and criminal elements within the confines of Okanogan County and its municipalities. The unit provides an ever-ongoing trained and equipped number of officers from various agencies. These officers are tasked with safely and effectively addressing these serious police confrontations in an effort to bring chaos to order and to stop or minimize any injury or death to citizens, suspects and/or Law Enforcement.

**WHEREAS**, it is desirable that each of the parties hereto should voluntarily aid and assist each other in such event by deployment of the Special Response Team to cope with the problems that arise in such events; and

**WHEREAS**, it is necessary and desirable that a cooperative agreement be executed for the interchange of such mutual aid between the jurisdictions hereto; and

**WHEREAS**, effective control during critical incidents depends upon effective activation of all possible manpower resources, including a Special Response Team, and bringing this force to bear to preserve life and property at the location of the incident; and

**WHEREAS**, in the Okanogan County area, critical incidents may affect more than one jurisdictional area, thus necessitating such cooperation so that all persons and property may be protected; and

**WHEREAS**, it is believed that the sooner a critical incident can be dealt with effectively, the more protection will be accorded to the citizens.

**NOW THEREFORE BE IT RESOLVED,**

**IT IS HEREBY AGREED BY AND BETWEEN EACH AND ALL OF THE PARTIES HERETO AS FOLLOWS:**

1. Each party hereto shall develop a plan providing for the creation, training, and mobilization of a Special Response Team to cope with actual and potential civil disturbances, riots, or other major disorders or law enforcement problems.
2. In the event of a critical incident, the first law enforcement resource to be utilized shall be the force of the primarily responsible agency. In the event that such resources are inadequate to control the situation, a request for aid under this plan will be made for use of the Special Response Team.
3. Each party agrees to furnish such resources and facilities and to render services for each and every party to this Agreement to prevent, control or adequately deal with a critical incident in accordance with duly adopted Policies and Procedures for the Special Response Team detailing the method and manner by which such resources, facilities, and services are to be made available and furnished, which operational plans may include provisions for the training and testing to make the Special Response Team effective; provided, however, that no party shall be required to deplete unreasonably its own police resources, facilities, and services in providing and furnishing such mutual aid.
4. The mutual services and resources provided herein shall be without reimbursement unless expressly agreed to by the jurisdiction requesting and the jurisdiction providing such aid.
5. It is expressly understood that this Agreement, and the Policies and Procedures to be adopted pursuant hereto, shall not supplant existing agreements, including mutual aid agreements, existing between jurisdictions in Okanogan County.
6. It is expressly understood that the Sheriff and/or Chief in whose respective jurisdiction a critical incident has occurred shall be in charge at such incident, including the direction of such personnel and equipment provided him through the operation of this Agreement and the accompanying Special Response Team's Policies and Procedures.
7. The respective jurisdiction in which the critical incident occurs agrees to indemnify, defend and hold harmless the other jurisdictions who respond thereto from any and all causes of action, judgments, claims or demands, or from any liability of any nature arising out of their actions or lack of action under the terms of this Agreement; provided, however, that whenever any officer



of a city or the County is injured, disabled, or dies from performing his or her duties by reason of engaging in the services to be provided pursuant to this Agreement, who is not at the time acting under the immediate direction of his employer, said officer, or said officer's dependents, as the case may be, shall be accorded by his or her employer the same benefits which he, she, or they would have received had that officer been acting under the immediate direction of his employer. The parties agree all indemnity obligations shall survive the completion, expiration or termination of this Agreement.

8. Officers from one agency who are responding to any call from another agency pursuant to this Agreement shall be automatically commissioned by virtue of this Agreement through the commissioning authority of the signatory requesting agency, and thereafter shall be empowered to exercise the same police authority during the time of the mutual aid as though he were a full-time commissioned officer of the requesting agency.

9. The terms of this Agreement shall be indefinite and this Agreement shall continue unless terminated by all parties hereto by written agreement; provided, however, that any one party shall have the right to withdraw from this agreement upon the giving of ninety (90) days prior written notice to all other parties.

10. No changes or modifications of this Agreement shall be valid or binding upon either party to this Agreement unless such changes or modifications are in writing and executed by all parties hereto.

11. Upon execution by all parties hereto, this Agreement shall be filed with the Okanogan County Auditor as required by Chapter 39.34 RCW.

12. Subsequent to the execution of this Agreement, the parties hereto anticipate that other Okanogan County law enforcement agencies may request to be made parties to this Agreement. In such event, this Agreement may be modified so as to provide for such membership.

DATED at Okanogan, Washington this \_\_\_\_ day of \_\_\_\_\_ 2022.

CITY OF OMAK, WASHINGTON

BOARD OF COUNTY COMMISSIONERS  
OKANOGAN COUNTY, WASHINGTON

\_\_\_\_\_  
Cindy Gagné, Mayor

\_\_\_\_\_  
Andy Hover, Chairman

\_\_\_\_\_  
Chris Branch, Member

\_\_\_\_\_  
Jim DeTro, Member

ATTEST:

ATTEST:

\_\_\_\_\_  
Connie Thomas, Clerk

\_\_\_\_\_  
Laleña Johns, Clerk of the Board

APPROVED AS TO FORM:

\_\_\_\_\_  
Mick Howe, City Attorney

CHIEF OF POLICE

\_\_\_\_\_  
Dan Christensen, Chief of Police

APPROVED AS TO FORM:

\_\_\_\_\_  
Esther Milner, Chief Civil Deputy

OKANOGAN COUNTY SHERIFF

\_\_\_\_\_  
Tony Hawley, Sheriff



# MEMORANDUM

To: Omak City Council  
Cindy Gagné, Mayor

From: Wayne Beetchenow  
Assistant Public Works Director

Date: October 3, 2022

Subject: Res. 62-2022 Approving the purchase of Clarifier parts.

---

The attached Resolution 62-2022, **A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING SOLE SOURCE PURCHASE OF CLARIFIER PARTS**, is forwarded for your consideration.

Attached is a quote from Lakeside Equipment Corporation. for the purchase of clarifier rebuild parts. These parts are to rebuild clarifier #1 at the wastewater treatment facility. Lakeside Equipment Corporation is the Sole Source provider of this equipment.

Our staff will install the part and the total project cost is expected to be under \$175,000.00. This project has been appropriated \$150,000 in the 2022 Budget. Due to supply issues, it is unknown if the actual cost for this project will fall withing the 2022 or 2023 budget years.

I support this Resolution and recommend its approval.

**RESOLUTION NO. 62-2022**

**A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING SOLE SOURCE  
PURCHASE OF CLARIFIER PARTS**

**WHEREAS**, the wastewater treatment plant has the need to rebuild clarifier 1; and

**WHEREAS**, the parts are available through Lakeside Equipment Corporation; and

**WHEREAS**, Lakeside Equipment Corporation is the original manufacture and Sole supplier of the needed components.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OMAK**, herby approves a sole source purchase of Clarifier parts with Lakeside Equipment Corporation, the quote attached hereto as "Exhibit A".

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

**SIGNED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

**ATTEST:**

\_\_\_\_\_  
Connie Thomas, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael D. Howe, City Attorney





1022 E Devon Ave, BARTLETT IL 60103  
T: (630) 837-5640 F: (630) 837-5647 E: parts@lakeside-equipment.com  
https://www.lakeside-equipment.com/

# EXHIBIT A

## PARTS REPLACEMENT QUOTE

DATE: 09/16/2022

EMAIL: wwtp@omakcity.com

FOR: CITY OF OMAK

SUBJECT: Quote #:77-116 OMAK, WA

ATTN: Jesus Arciniega

QUOTE NO: Q22000897

FROM: LaVar Parish

Replacement Parts

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivery of the message to the intended recipient, YOU ARE HEREBY NOTIFIED that any dissemination, distribution, publication, or copying of this message is strictly prohibited. If you have received this message in error, please notify Lakeside immediately by phone at 630-837-5640 and return the message by U.S. Mail.

Dear : Jesus Arciniega

We are pleased to quote the following replacement parts for your Equipment(s). Your current costs are as follows:

<b>Equipment No :</b>	2 - 46' SpiraFlo Clarifiers	77-116-02	
	1 EA D23846J SLUDGE SCRAPER TRUSS ASSEMBLY, STN. STL. NOTE		\$75,020.00
	1 EA 16'-9" SQ. WEIR TROUGH ASSEMBLY, STN. STL. NOTE		\$79,160.00

Please be advised that this quotation will be honored for 30 days.

The above prices are F.O.B. factory with freight allowed to the job site. Terms of payment are net 30 days from date of shipment and the Conditions of Sales are in accordance with GIL-108, copy attached

**NOTE: Lakeside will accept payment by Credit Card. A 3% Service Charge will be added to the invoice upon shipment**

Shipment would be 14-16 WEEKS after receiving an order subject to the shop's backlog at the time of the order.

In an effort to become more efficient Lakeside would prefer to invoice clients by email whenever possible. When ordering if you could verify the email address you wish to have the invoice sent to it would be appreciated. We will Still be glad to mail the invoice if you wish

We thank you for this opportunity to quote and are looking forward to being of service to you

Very truly yours,

LaVar Parish

E-Mail:lp@lakeside-equipment.com

CC :Goble Sampson Assoc. Inc./ UT ( SALT LAKE CITY,UT)

**QUOTATION ACCEPTED BY:**

\_\_\_\_\_  
Sign as Agent for Purchaser

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company

\_\_\_\_\_  
Date

**CONDITIONS OF SALE  
(REPLACEMENT PARTS)**

THIS QUOTATION IS SUBJECT TO THE FOLLOWING CONDITIONS OF SALE:

You are hereby notified that unless we receive notice (as a part of your purchase order, or in a separate writing, if acceptance is oral) of your rejection of any of these conditions, these conditions shall become a part of the agreement between us. Acceptance is good only when received by us at our offices in Bartlett, Illinois.

**ACCEPTANCE:** This quotation is void at our option unless a purchase order is placed with us within sixty (60) days from the date of the attached written proposal. The order will be subject to written acceptance by our company's executive office.

**TERMS:** Net due thirty (30) days after date of shipment. Any balance remaining due thirty-one (31) days beyond the shipment date will be subject to a monthly service fee of one and one-half percent (1.5%) per month on the unpaid balance until paid. Should we have to engage an attorney to collect the balance due us, including the service fee, you agree to reimburse us for all collection costs including reasonable attorney fees.

**CONTRACT:** We both agree that this contract contains the complete and final agreement between us and may not be modified, supplemented, explained, or waived by oral evidence, your purchase order, course of dealing, or in any other way, except where made in writing and signed by you and your company's authorized officer, and attached hereto. All terms herein employed shall have the same definition as set forth in the Uniform Commercial Code in effect in the State of Illinois, under the Illinois Revised Statutes, Chapter 26, Paragraphs 1-101 et. seq., on the date of execution of this agreement. This agreement is divisible: Any claim or rejection by the Buyer as to one part of the order shall not alter the obligations of the Buyer as to any other part or parts delivered under this agreement. If any clause of this agreement is held unconscionable by any court of competent jurisdiction, the clause in question shall be modified to eliminate the unconscionable element, and as so modified the clause shall be binding on the parties and the remaining provisions of the agreement shall not be affected by the modification of any unconscionable clause.

**TAXES & OTHER CHARGES:** Unless otherwise indicated, no Sales, Use, Retailers' Occupation, Service Occupation, Service Use, or similar taxes or custom duties, import fees and similar charges, have been included in our prices. The amount of any such taxes or charges which are paid or assessed in connection with this order and which are not specifically stated as being included in the purchase price, shall be paid by you, either directly to the appropriate authorities (in which event you shall furnish us with satisfactory evidence of such payments) or to us if we have paid, or are required to pay, such taxes or charges. If you are tax exempt, you will need to provide us with your exemption certificate. You agree to reimburse our company for taxes we must pay on your behalf.

**INSPECTION, CLAIMS AND ACCEPTANCE OF GOODS:** Buyer shall immediately inspect the equipment upon receipt thereof. Claims for errors of shortages existing prior to our delivery of the equipment to the carrier will be considered only when made to us immediately after receipt of shipment, and shall be in writing. Seller is not obligated to consider any claim for shortages or nonconformance unless notified thereof by Buyer within twenty (20) days after Buyer's receipt of the equipment. Failure to make such inspection shall be a waiver of the right to make such an inspection prior to payment for the goods, shall be a waiver of any defect which inspection would have revealed, and shall prevent Buyer from subsequently rejecting or revoking acceptance of the goods for any reason. Modifications to *Lakeside's* equipment done by others to meet *OSHA* or local safety codes will be by others. Seller will supply only the safety devices, if any, described in the attached written proposal. (See also **WARRANTY**, below.)

**TITLE OF GOODS AND SECURITY INTEREST:** Until all amounts due hereunder have been paid in full, title shall not pass from Seller to Buyer, and Seller has a security interest in the equipment and has all rights of a secured party under the Uniform Commercial Code including, without limitation, the right to take possession of the equipment without legal process and the right to require Buyer to assemble the equipment and make it available to Seller at a place reasonably convenient to both parties. At Seller's request, Buyer shall execute any financing statement or statements submitted by Seller in order that Seller's security interest in the equipment may be perfected.

**CANCELLATION:** Cancellation or suspension of this contract will be accepted only upon terms that will indemnify *Lakeside Equipment Corporation* against loss. You agree to reimburse our company for our costs incurred in such cancellation, including overhead and administrative costs. In the event of bankruptcy or insolvency of Buyer or in the event any proceeding is brought by or against Buyer under the bankruptcy or insolvency laws, Seller shall be entitled to cancel any order then outstanding and shall receive reimbursement for the reasonable and proper cancellation charges accrued by Seller.

**TRANSPORTATION EXPENSE:** Unless otherwise noted, the price as shown in this agreement (pursuant to the attached written proposal) includes freight to the destination shown, at lowest available freight rates on a common carrier of our choice. If you require us to ship another way, you will bear any additional expense.

**RISK OF LOSS:** You shall bear the risk of loss resulting from any and all damage or injury to the shipment from and after delivery to the carrier at point of shipment.

**CHANGES & DELAYS-COST:** If you cause changes to be made, or delay or interrupt the progress of the work, you will reimburse us for any additional expense resulting from such cause. Any of such changes or delays which may adversely affect the operation of the equipment will nullify our warranty unless we consent in writing thereto. We also shall not be liable for delay in delivery caused by any reason beyond our control,



including but not limited to your delay in promptly submitting all information necessary for us to proceed with the work, your delay in approval drawings, acts of God, casualty, civil disturbance, labor disputes, strikes, transportation or supply difficulties, or intervention by any governmental authorities. The time for delivery specified herein shall be extended during the continuance of such conditions and for a reasonable time thereafter.

**PATENTS:** We agree to indemnify you against any charge of infringement of any presently issued apparatus patent by reason of the use of the equipment sold to you under this contract; provided however, that:

- A. Such charge relates exclusively to something which we designed or selected, and
- B. Such charge does not arise as a result of any modification of the equipment by you, or the combination thereof by you with equipment furnished by others, and
- C. We are notified in writing immediately upon receipt of such charge, and
- D. We are given absolute control of the defense and the right to defend or settle such charge, and
- E. We are allowed to make such changes in the equipment as we deem necessary for the purpose of avoiding infringement.

**LIABILITY:** It is expressly understood and agreed herein that our liability, including that for negligence, for our products is limited to the furnishing of such replacement parts as are required under WARRANTY, below, and that we will not be liable for any other expense, injury, loss or damage, whether direct or consequential, including but not limited to loss of profits, production, increased cost of operation, or spoilage of material, arising in connection with the resale or use of, or inability to use, our equipment or products for any purpose except as herein provided.

WARRANTY

*Lakeside Equipment Corporation ("Lakeside")* warrants to Buyer that equipment sold hereunder, of its manufacture, are free from defect in material and workmanship, and are of the kind and quality designated or described herein. This warranty shall be in full force and effect from the time of shipment of such equipment for a period of ninety (90) days from the date of shipment. *Lakeside* will furnish without charge, but will not install, replacements for such parts as it finds to have been defective, and the obligation of *Lakeside* to replace such defective parts shall be the exclusive remedy hereunder. Buyer must give *Lakeside* notice in writing of any alleged defect covered by this warranty within thirty (30) days of the discovery of such defect during the warranty period. No claim made more than thirty (30) days after the warranty period shall be valid.

This warranty shall not apply to:

- A. Any equipment which, in the judgment of *Lakeside*, has been subjected to misuse, neglect or accident;
- B. Any equipment which has been altered, tampered with, or upon which corrective work has been done thereon without *Lakeside's* specific written consent;
- C. Any equipment which has been operated or maintained in a manner which in any way deviates from the maintenance schedules, specifications, and parameters set forth in *Lakeside's* Operator's Manual for such equipment.
- D. Modification to the equipment by others to meet or comply with the requirements of any safety code or regulation of any state, municipality or other jurisdiction.
- E. Damage to machine or components due to lack of implementing the Recommendations on Short-term and Long-term Storage of Equipment guidelines.

No allowances will be made for any such alterations or corrective work done without the specific written consent of *Lakeside*. Conditions caused by improper lubrication, deterioration by chemical action, and wear caused by the presence of abrasive materials, do not constitute defects. Equipment manufactured by others, and included in *Lakeside's* proposal, is not warranted in any way by *Lakeside*, but carries only that manufacturer's warranty, if any. No representative of *Lakeside* has any authority to waive, alter, vary or add to the terms hereof without prior written approval. There shall be no third party beneficiary to the warranties contained in this agreement.

THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER GUARANTEES AND WARRANTIES OF QUALITY, WRITTEN, ORAL OR IMPLIED; ALL OTHER WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE ARE HEREBY EXPRESSLY DISCLAIMED.

**ARBITRATION:** Any controversy or claim arising out of or relating to this contract, or any modification thereof, shall be settled in Kane County, Illinois, by Arbitration in accordance with the laws of the State of Illinois, and the current Rules of the American Arbitration Association, and the parties consent to jurisdiction of the Circuit Court for the 16th Judicial Circuit, Kane County, State of Illinois, and further consent that any process or notice of motion or other application to such Court or a judge thereof may be served outside the State of Illinois by registered mail or by personal service, provided a reasonable time for appearance is allowed. Judgment upon the award rendered by the Arbitrator may be entered in any court having jurisdiction hereof, which shall include the county of arbitration.

**CONFIDENTIAL INFORMATION:** All information and data herein furnished to Buyer, relating to price, size, type and design is submitted with the understanding that it is for Buyer's own confidential use and is not to be shown or otherwise made known or available to any third party at any time without Seller's written consent.



1022 E. Devon Avenue | P.O. Box 8448 | Bartlett, IL 60103  
T: 630-837-5640 | F: 630-837-5647 | E: sales@lakeside-equipment.com  
www.lakeside-equipment.com

September 20, 2022

City of Omak  
635 S. Fir St.  
Omak, WA 98841

Attention: Jesus Arciniega

Subject: Omak, WA  
S.O.# 77-116  
46'-0" Dia. Spiraflo Clarifier

Greg,

This is to confirm that Lakeside Equipment Corporation is the Manufacturer and Sole Distributor for the replacement parts for your 46' Spiraflo Clarifier purchased in 1977.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

LaVar L. Parish  
LP:bm





**INTEROFFICE MEMORANDUM**

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**TO:** MAYOR GAGNÉ  
OMAK CITY COUNCIL

**FROM:** FINANCE DEPARTMENT

**SUBJECT:** RES. 63-2022– AMEND PROFESSIONAL SERVICE AGREEMENT-  
HIGHLANDS ASSOC.

**DATE:** OCTOBER 3, 2022

---

The attached **Resolution 63-2022, a Resolution Amending the Professional Services Agreement Between Highlands Associates and the City of Omak for Professional Planning Services in 20230**, is forwarded for your consideration.

Council approved a Professional Services Agreement with Highlands Associates in 2019. The agreement has been renewed annually and the compensation and payments have remained the same. After review, Kurt Danison dba Highlands Associates proposed an increase of \$3 for all staff time hourly rates in addition to a mileage increase to .63/mile. The agreement terms are for two years effective January 1, 2023 through December 31, 2024.

I support this Resolution and urge its adoption.

**RESOLUTION NO. 63-2022**

**A RESOLUTION AMENDING THE PROFESSIONAL SERVICES AGREEMENT  
BETWEEN HIGHLANDS ASSOCIATES AND THE CITY OF OMAK FOR  
PROFESSIONAL PLANNING SERVICES IN 2023**

**WHEREAS**, the City of Omak entered into a Professional Services Agreement with KURT DANISON dba HIGHLANDS ASSOCIATES for planning services in December of 2020, as approved by Resolution 73-2019; and,

**WHEREAS**, Resolution 73-2019 has been extended by Resolution annually since 2020; and

**WHEREAS**, the agreement was recently reviewed by the City of Omak and Highlands Associates;

**WHEREAS**, Highlands Associates is proposing a two year agreement with an increase of \$3 for all staff time hourly rates and mileage 0.63/mile, effective January 1, 2023 through December 31, 2024.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Omak that the 2023 agreement Compensation and Payments to the contract between the City of Omak and Highlands Associates is hereby amended, a copy of which is attached hereto as Exhibit is "A".

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**SIGNED:**

\_\_\_\_\_  
Cindy Gagné, Mayor

**ATTEST:**

\_\_\_\_\_  
Connie Thomas, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael Howe, City Attorney



## AGREEMENT BETWEEN THE CITY OF OMAK AND HIGHLANDS ASSOCIATES

**THIS AGREEMENT** made and entered into by and between the City of Omak, hereinafter referred to as "CITY" and Kurt Danison, doing business as Highlands Associates hereinafter referred to as "CONSULTANT", witnesses that:

**WHEREAS**, CITY and CONSULTANT are desirous of entering into an agreement to formalize their relationship; and

**WHEREAS**, it would be beneficial to CITY to utilize CONSULTANT as an independent entity to accomplish the services set forth herein and such endeavor would tend to best accomplish the objectives of the local land use planning.

**NOW THEREFORE**, in consideration of the mutual promises, covenants, and provisions contained herein, and the mutual benefits to be derived therefrom, the parties hereto agree as follows:

### **1. CONSULTANT'S Basic and Additional Services:**

A. The CONSULTANT agrees to provide the CITY the following Basic Services:

- 1) Identifying and analyzing problems and recommending improvements to land use and environmental planning systems or practices that build the City's management capacity;
- 2) Provide assistance, advice and guidance to the CITY's Planning Commission, City Council, Staff and Land Use Examiner, regarding land use permitting and current and long range planning issues (includes: annexations, long and short plats, variances, conditional uses, zoning and comprehensive plan map amendments, shoreline permits, intergovernmental coordination, geographic information system mapping, building permits and related permitting and land use approval processes).
- 3) Provide assistance for various transportation related projects.

B. Additional services, such as preparation of plan amendments, planning documents and grant requests, are beyond the CONSULTANT'S Basic Services. However, such services may be provided if confirmed in writing by the Mayor.

C. CONSULTANT agrees to provide its professional services in accordance with generally accepted standards of its profession.

**2. CITY Responsibilities:**

A. The CITY agrees to provide the CONSULTANT with all the information, surveys, comments, reports, and professional recommendations requested by the CONSULTANT in order to provide its professional services. CONSULTANT may reasonably rely on the accuracy and completeness of these items.

B. CITY agrees to provide the items described in Article 2.A. and to render decisions in a timely manner so as not to delay the orderly and sequential progress of the CONSULTANT'S services.

**3. Agreement Period:** The effective date of this Agreement shall be January 1, 2023. The termination date of this Agreement shall be December 31, 2024.

**4. Compensation and Payments:**

A. The CITY shall reimburse the CONSULTANT for the services described in Section 1 A above according to following rates unless otherwise agreed to by the CONSULTANT and CITY.

<u>Staff Time (hourly rate):</u>		<u>Direct Charges:</u>	
Principal Planner	\$75.00	Mileage	\$0.63/mile
Senior Associate Planner	\$65.00	Copies	at cost
Associate Planner	\$60.00	Faxes	at cost
Assistant Planner	\$52.00	Telephone	at cost
Clerical	\$42.00	meals, lodging	at cost
Overhead/Profit/Indirect Rate	6%		

B. Additional Services: Additional services shall be billed at the same rates unless otherwise agreed to by the CONSULTANT and CITY.

C. The CONSULTANT shall prepare an invoice when requesting payment for services and, if appropriate, a statement indicating the type of Additional Services rendered including hours used and direct charges. The CITY shall, within 30 days of receipt of such invoice, remit a check to the CONSULTANT for the amount requested on the CONSULTANT'S invoice or statement unless otherwise agreed upon by both parties.

D. A service charge of 1.5% per month will be charged on all amounts due more than 30 days.

**5. Evaluation and Monitoring:**

A. The CONSULTANT shall cooperate with and freely participate in any monitoring or evaluation activities conducted by the CITY that is pertinent to the intent of this Agreement.



B. The CONSULTANT shall provide the CITY with a monthly statement of service rendered on or before the 10<sup>th</sup> day of the month, following the month in which the services were rendered. Said statement shall include an itemized listing of services rendered, the CONSULTANT name and title of who performed the service and the time allocated for said services.

C. The CITY or the State Auditor or any of their representatives shall have full access to and the right to examine during normal business hours and as often as the CITY or the State Auditor may deem necessary, all the CONSULTANT'S records with respect to all matters covered in this Agreement. Such representative shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all contracts, invoices, materials, payrolls, and records of matters covered by this Agreement. Such rights last for three years from the date final payment is made hereunder.

**6. Equal Employment Opportunity:** The CONSULTANT agrees that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin.

**7. Modifications:** The CONSULTANT and the CITY may, from time to time, request changes in the Basic Services or add Additional Services to the duties to be performed by the CONSULTANT. Any such changes that are mutually agreed upon by the CITY and the CONSULTANT shall be incorporated herein by written amendment to this Agreement. It is mutually agreed and understood that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that any oral understanding or agreements not incorporated herein, unless made in writing and signed by the parties hereto, shall not be binding.

**8. Assignment:** The CONSULTANT shall not assign nor transfer any interest in this contract without the prior written consent and approval of the CITY.

**9. Status of Consultant:** The CONSULTANT is an independent contractor operating for its own account and is in no way and to no extent an employee or agent of the CITY. The CONSULTANT shall have the sole judgment of the means, mode or manner of the actual performance of this Agreement. The CONSULTANT, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing this Agreement.

**10. Records, Documents, And Reports:** The CONSULTANT shall maintain books, records, documents, and other evidence and accounting procedures and practices which sufficiently and properly reflect all hourly charges and direct costs of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by CITY personnel and other personnel duly authorized by the CITY or the Office of the State Auditor. The CONSULTANT will retain all books, records, documents, and other material relevant to this Agreement for three years after expiration and the Office of the State Auditor, or any person duly authorized by the CITY shall have full access to and the right to examine any of said materials during said period.

**11. Indemnity Agreement:**

A. The CONSULTANT shall hold the CITY harmless from, and shall indemnify the CITY against, any and all claims, demands, actions or liabilities caused by or occurring by reason of any negligent act or omission of the CONSULTANT, its agents, employees or subcontractors, arising out of or in connection with the performance of this agreement.

B. The CONSULTANT shall be required to indemnify the CITY in those cases where damages have been caused by the concurrent negligence of the CITY and the CONSULTANT, its agents, employees or subcontractors. In those cases, the liability of the CONSULTANT for indemnifications shall be limited to that portion of the damages caused by the negligence of the CONSULTANT, its agents, employees or subcontractors.

C. The CONSULTANT has no duty to indemnify the CITY where damages were caused by the negligence of the CITY.

**12. Special Provisions:**

A. This Agreement is the entire and integrated agreement between the CITY and CONSULTANT and supercedes all prior negotiations, statements, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the CITY and CONSULTANT. Neither party may assign this Agreement without the other party's written permission.

B. Notwithstanding any other term in this Agreement, CONSULTANT shall not control or be responsible for another party's means, methods, techniques, schedules, sequences or procedures, or for construction safety or any other related programs.

C. The parties agree that in the event a civil action is instituted by either party to enforce any of these terms and conditions of this agreement, or to obtain damages or other redress for any breach hereof, the prevailing party shall be entitled to recover from the other party, in addition to its other remedies, its reasonable attorney's fees in such suit or action and upon any appeal therefrom.

D. The CONSULTANT shall provide evidence of comprehensive general liability insurance, which includes but is not limited to, operations of the CONSULTANT, commercial general liability and blanket limited contractual liability with limits of not less than:

1) Comprehensive General Liability

Bodily Injury and/or Property Damage: \$1,000,000.00 each occurrence

2) Automobile Liability

Bodily Injury and/or Property Damage: \$300,000.00 each occurrence



The CITY shall be named as an additional insured as respects to this agreement. In conjunction therewith, the CONSULTANT shall furnish a certificate of such insurance to the CITY at the time of execution of this agreement.

3) Professional Liability

The CONSULTANT shall provide Professional Errors and Omissions Liability insurance, which shall provide coverage for any negligent professional acts, errors or omissions for which the consultant is legally responsible, with limits of not less than:

Professional Errors & Omissions \$1,000,000.00 each occurrence

The CONSULTANT shall furnish a certificate of such insurance to the CITY at the time of execution of this agreement.

**13. CONSULTANT** reserves the right to include representations of documents, data and systems resulting from this Agreement in its promotional and professional materials.

**14. Dispute Resolution:** CITY and CONSULTANT agree to mediate claims or disputes arising out of or relating to this Agreement. The mediation shall be conducted by a mediation service acceptable to the parties. A demand for mediation shall be made within a reasonable time after a claim or dispute arises. In no event shall any demand for mediation be made after such claim or the applicable law would bar dispute.

**15. Governing Law and Venue:** This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the State of Washington. Venue of any suit between the parties arising out of this Agreement shall be the Superior Court of Okanogan County, Washington.

**16. Severability:** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.

**17. Administration:**

A. CONSULTANT'S representative shall be Kurt E. Danison.

B. CITY'S representative shall be the City Administrator of the City of Omak.

City of Omak/Highlands Associates  
2023 Agreement for Services

**IN WITNESS WHEREOF**, the CITY and CONSULTANT have executed this Agreement as of the date and year written below.

**CITY OF OMAK**

BY \_\_\_\_\_

Cindy Gagne, Mayor

Kurt E. Danison, Owner/Principal  
Highland Associates  
P.O. Box 1431  
Okanogan, WA. 98840  
(509) 322-4037

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

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