
AGENDA
OMAK CITY COUNCIL MEETING
Monday, February 5, 2024 – 7:00 PM

A. CALL TO ORDER

B. FLAG SALUTE

C. CITIZEN COMMENTS

D. CORRESPONDENCE AND MAYOR'S REPORT

E. CONSENT AGENDA

1. Approval of Minutes from January 16, 2024
2. Approval of 2024 Claims and January '24 Payroll

F. AWARD PRESENTATION

1. Fire Chief – Jeremy Patrick

G. OLD BUSINESS

1. Ord. 1936–2nd Read–Budget Amendment–Julia Maley Well Treatment
2. Omak Comprehensive Plan- Kurt Danison



H. NEW BUSINESS

1. Ord. 1937 – 1st Read – Budget Amendment – Street Fund
2. Res. 11-2024 – Approve Agreement with TIB for 2024 Chip Seal Project
3. Res. 12-2024 – Approve Agr. with TIB - Central Ave Reconstruction
4. Res. 13-2024 – Approve Agreement with TIB – Jonathan Ave Constr.
5. Res. 14-2024 – Approve MOU with North Central Washington Libraries



I. OTHER BUSINESS

1. Council Committee Reports
2. Staff Reports



Action by City Council

Our Council Meetings are conducted in person in addition to Zoom Meetings. Meeting information is located on our website at omakcity.com. If you need support or accommodations, contact the City Clerk in advance by phone at 509-826-1170 or by e-mail clerk@omakcity.com for assistance.

MEMORANDUM

To: Omak City Council
Cindy Gagnè, Mayor

From: Todd McDaniel

Date: January 16, 2024

Subject: Ordinance 1936 Amending 2024 Budget, Water, Julia Maley
Treatment

The Attached Ordinance 1936 Amending the City of Omak 2024 Budget, Appropriating Additional Expenditures in the Water Fund for the Julia Maley Well Treatment Project, is forwarded for your consideration.

The Julia Maley Well Treatment project was awarded after the final budget was approved. This project amendment appropriates an additional \$600,000 for the construction and administration of this project. This project is partially funded through a DWSRF loan that was secured in June of 2021.

This project is intended to replace the water withdrawals that were lost when the Apple and Kenwood wells were shuttered, due to the influence of surface water.

I approve this Ordinance and urge its Adoption

ORDINANCE NO. 1936

**AN ORDINANCE AMENDING THE CITY OF OMAK 2024 BUDGET,
APPROPRIATING ADDITIONAL EXPENDITURES IN THE WATER FUND FOR THE
JULIA MALEY WELL TREATMENT PROJECT**

WHEREAS, the City of Omak adopted the 2024 Budget by passage of Ordinance No. 1931 on December 4, 2023; and

WHEREAS, the Julia Maley Water Well Treatment project was awarded by Resolution 94-2023 on December 11, 2023; and

WHEREAS, the costs for the completion of this project during the 2024 fiscal budget is now known; and

WHEREAS, said expenditures are not one of the emergencies specifically enumerated in RCW 35A.33.080; and

WHEREAS, the City of Omak is desirous of amending its budget pursuant to RCW 35A.33.090.

THE CITY COUNCIL OF THE CITY OF OMAK DO ORDAIN AS FOLLOWS:

- Section 1. Ordinance No. 1931 adopting the 2024 Budget, shall be amended to Include changes to the budget as shown in Attachment "A" of this ordinance.
- Section 2. This ordinance shall become effective from and after the date of its passage by Council by a vote of one more than the majority of all Councilmembers, approval by the Mayor and publication as required by law.

PASSED by the City Council of the City of Omak, this _____day of _____, 2024.

APPROVED:

Michael Foth, Mayor Pro-Tem

ATTEST:

APPROVED AS TO FORM:

Connie Thomas, City Clerk

Michael Howe, City Attorney

Filed with City Clerk: _____

Passed by City Council: 1ST Reading _____

2nd Reading _____

Date Published: _____

Date Effective: _____

On the _____ day of _____, 2024, the City Council of the City of Omak
passed Ordinance No. 1936.

DATED this ____ day of _____ 2024

Connie Thomas, City Clerk

2024 BUDGET AMENDMENT ORDINANCE NO. 1936 ATTACHMENT "A"

Description	2024 Budget	Expenditure	Revised Budget
<u>Water Fund 401</u>			
<u>Ending Fund Balance</u>			
401-508-51-00-00	\$976,632.88	\$600,000.00	\$376,632.88
<u>Arsenic Study Julia Maley</u>			
101-594-34-64-60	\$2,012,547.00	\$600,000.00	\$2,612,547.00
Expenditure Total	\$4,464,027.51		\$5,064,027.51
Total Fund	\$5,440,660.39		\$5,440,660.39

Water Fund

This Ordinance approves additional expenditures of \$600,000.00 for the Julia Maley Well Treatment Project and reduces the Ending Fund Balance by a like amount.

MEMORANDUM

To: Omak City Council
Cindy Gagné, Mayor

From: Todd McDaniel

Date: February 5, 2024

Subject: Ordinance 1937 Amending 2024 Budget, Street Fund - TIB Projects

The Attached Ordinance 1937 Amending the City of Omak 2024 Budget, Appropriating Additional Expenditures and recognizing additional revenues in the Street Fund for 2024 Transportation Improvement Board Projects, is forwarded for your consideration.

The city has received 3 competitive grants from the Transportation Improvement Board for: Central Avenue, Jonathan Avenue, and an area chipseal project. This Ordinance amends the Budget to recognize the anticipated revenues and expenditures that we will have this year.

The Central Avenue and Jonathan Projects are Design/Construction projects that will require additional appropriations in 2025. In total the TIB Award for the completion of these projects is \$1,794,134. The city will be required a match of 5%,

This ordinance recognizes \$295,361 in Revenue and appropriates \$279,462 in Expenditures for the Street Fund.

I approve this Ordinance and urge it Adoption.

ORDINANCE NO. 1937

**AN ORDINANCE AMENDING THE CITY OF OMAK 2024 BUDGET,
APPROPRIATING ADDITIONAL EXPENDITURES AND RECOGNIZING
ADDITIONAL REVENUES IN THE STREET FUND FOR 2024 TRANSPORTATION
IMPROVEMENT BOARD PROJECTS**

WHEREAS, the City of Omak adopted the 2024 Budget by passage of Ordinance No. 1931 on December 4, 2023; and

WHEREAS, the Washington State Transportation Improvement Board annually approves competitive grant funding to local jurisdictions at their December board meeting; and

WHEREAS, as result of this board meeting, the City of Omak was selected to receive funding for three transportation improvement projects; and

WHEREAS, to initiate these projects, it is now necessary to include the costs of these projects into the 2024 budget; and

WHEREAS, the actual Beginning Fund Balances for fiscal year 2024 are now know; and

WHEREAS, said expenditures are not one of the emergencies specifically enumerated in RCW 35A.33.080; and

WHEREAS, the City of Omak is desirous of amending its budget pursuant to RCW 35A.33.090.

THE CITY COUNCIL OF THE CITY OF OMAK DO ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 1931 adopting the 2024 Budget, shall be amended to Include changes to the budget as shown in Attachment "A" of this ordinance.

Section 2. This ordinance shall become effective from and after the date of its passage by Council by a vote of one more than the majority of all Councilmembers, approval by the Mayor and publication as required by law.

PASSED by the City Council of the City of Omak, this _____ day of _____, 2024.

APPROVED:

Cindy Gagné, Mayor

ATTEST:

APPROVED AS TO FORM:

Connie Thomas, City Clerk

Michael Howe, City Attorney

Filed with City Clerk: _____

Passed by City Council: 1ST Reading _____

2nd Reading _____

Date Published: _____

Date Effective: _____

On the _____ day of _____, 2024, the City Council of the City of Omak
passed Ordinance No. 1937.

DATED this ____ day of _____ 2024

Connie Thomas, City Clerk

2024 BUDGET AMENDMENT ORDINANCE NO. 1937 ATTACHMENT "A"

Description	2024 Budget		Revised Budget
<u>Street Fund 102</u>		<u>Revenue</u>	
<u>Beginning Fund Balance</u>			
102-308-00-00-00	\$215,527.74	29,383.14	\$244,910.88
<u>Central Avenue Reconstruction II Design TIB</u>			
102-334-03-83-85	\$0.00	\$108,849.00	\$108,849.00
<u>Johnathan Design/ROW TIB</u>			
102-334-03-83-95	\$0.00	\$95,700.00	\$95,700.00
<u>2024 Chip Seal TIB</u>			
102-334-03-83-83	\$0.00	\$61,429.00	\$61,429.00
Revenue Total	\$993,062.00	\$265,978.00	\$1,259,040.00
Total Fund	\$1,208,589.74		\$1,503,950.88
		<u>Expenditure</u>	
<u>Ending Fund Balance</u>			
102-508-51-00-00	\$80,558.93	\$15,889.14	\$96,458.07
<u>Central Ave Reconstruction II Design TIB</u>			
102-595-10-63-15	\$0.00	\$114,200.00	\$114,200.00
<u>Johnathan Design/ROW TIB</u>			
102-595-20-63-15	\$0.00	\$100,600.00	\$100,600.00
<u>2024 Chip Seal TIB</u>			
102-595-30-63-49	\$0.00	\$64,662.00	\$64,662.00
Expenditure Total	\$1,128,030.81	\$279,462.00	\$1,407,492.81
Total Fund	\$1,208,589.74		\$1,503,950.88

Water Fund

This Ordinance recognizes an increase of \$29,383.14 in actual Beginning Fund Balance, \$265,978.00 in additional TIB revenue, and appropriates \$279,462.00 of expenditures for 2024 TIB projects, resulting in a \$15,889.14 increase to Ending Fund Balance.

MEMORANDUM

To: Omak City Council
Cindy Gagné, Mayor

From: Wayne Beetchenow, Public Works Director

Date: February 5, 2024

Subject: Resolution 11-2024 - 2024 TIB Chip Seal Project

The Attached Resolution 11-2024, **A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING THE GRANT AGREEMENT BETWEEN THE CITY OF OMAK AND THE WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD FOR FY 2024 CHIP SEAL PROJECT NUMBER 2-E-987(009)-1**, is forwarded for your consideration.

The Transportation improvement board has awarded a grant for a Chip Seal Project. This project will allow the city to chip seal the remaining streets in Omak. The work will be done using City and Okanogan County crews.

I support this resolution and recommend its approval.

RESOLUTION NO. 11-2024

**A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING THE GRANT
AGREEMENT BETWEEN THE CITY OF OMAK AND THE WASHINGTON STATE
TRANSPORTATION IMPROVEMENT BOARD FOR FY 2024 CHIP SEAL PROJECT
2-E-987(009)-1**

WHEREAS, the City of Omak has been awarded funding from the Washington State Transportation Improvement Board (TIB) for 2024 Chip Seal Project; and

WHEREAS, the total Chip Seal project is estimated at \$64,662, of which the Transportation Improvement Board will pay a maximum grant of \$61,429, and the City will provide the required match of \$3,233.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Omak, Washington accepts the grant agreement between the City of Omak and the Transportation Improvement Board, a copy of which is attached hereto as Exhibit "A". The Mayor is authorized to execute the Grant Agreement on behalf of the city.

INTRODUCED and passed this _____ day of _____, 2024.

APPROVED:

Cindy Gagné, Mayor

ATTEST:

Connie Thomas, City Clerk

APPROVED AS TO FORM:

Michael D. Howe, City Attorney



City of Omak
2-E-987(009)-1
2024 Chip Seal
Multiple Locations

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Omak
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the 2024 Chip Seal, Multiple Locations (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of Omak, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

For the project specified above, TIB shall pay 95.0002 percent of approved eligible project costs up to the amount of \$61,429, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT's Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT's submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as



often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable amounts are greater than \$50,000. If progress billings are not submitted, large payments may be delayed or scheduled in a payment plan.

5.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through closeout of the grant or until terminated as provided herein, but shall not exceed 10 years unless amended by the Parties.

6.0 AMENDMENTS

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

7.0 ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

8.0 GOVERNANCE & VENUE

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

9.0 DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) In response to the notice, RECIPIENT shall provide a written response within 10 business days of receipt of TIB's notice of non-compliance, which should include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details.
- c) TIB will provide 30 days for RECIPIENT to make reasonable progress toward compliance pursuant to its plan to correct or implement its amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold further payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:



- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

9.3 TERMINATION

- a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.
- b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose.

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the maximum payable TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060. If an increase is denied, the recipient shall be liable for all costs incurred in excess of the maximum amount payable by TIB. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the intended ratio between TIB funds and total project costs, as described in Section 1.0 of this Agreement.



12.0 INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

Each of the PARTIES, shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that PARTY's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other PARTY. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence. Each of the PARTIES agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to the other PARTY only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing PARTY shall be entitled to recover its reasonable attorney's fees and costs incurred from the other PARTY. The obligations of this Section shall survive termination of this Agreement.

14.0 DISPUTE RESOLUTION

- a) The PARTIES shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this AGREEMENT.
- b) Informal Resolution. The PARTIES shall use their best efforts to resolve disputes promptly and at the lowest organizational level.
- c) In the event that the PARTIES are unable to resolve the dispute, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The PARTIES shall share equally in the cost of the mediator.
- d) Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.
- e) The PARTIES agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.



15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain books, records, documents, data and other evidence 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. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

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

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer

Date

Executive Director

Date

Print Name

Print Name



Transportation Improvement Board

Project Funding Status Form

Agency Name: **OMAK**
Project Name: **2024 Chip Seal**
Multiple Locations

TIB Project Number: **2-E-987(009)-1**

Verify the information below and revise if necessary.

Email to: andrewb@tib.wa.gov

PROJECT SCHEDULE

Target Dates		
Construction Approval	Contract Bid Award	Contract Completion

PROJECT FUNDING PARTNERS

List additional funding partners and amount.

Funding Partners	Amount	Revised Funding
OMAK	3,233	
WSDOT	0	
Federal Funds	0	
TOTAL LOCAL FUNDS	3,233	

Signatures are required from two different agency officials. Return the originally signed form to your TIB Engineer.

Mayor or Public Works Director

Signature

Date

Printed or Typed Name

Title

Financial Officer

Signature

Date

Printed or Typed Name

Title

Small City Preservation Program (SCPP)
Approved Segment Listing
FY 2025 Seal Coat Program

OMAK

Street	Termini	Pavement Length	Pavement Width
Canyon Court Drive	Canyon Ct Dr to End	650 feet	25 feet
Dewberry Avenue E	Juniper St N to Locust St N	1,040 feet	35 feet
Grainger Avenue	Locust St N to Maple St	425 feet	22 feet
Hillcrest Circle Drive	S half of Loop of Hillcrest Cir Dr	1,200 feet	25 feet
Juniper Street S	4th Ave E to 5th Ave E	460 feet	22 feet
Kenwood Street N	Bartlett Ave E to Dewberry Ave E	475 feet	22 feet
Kenwood Street N	Bartlett Ave E to Levee	200 feet	35 feet
Maple Street	Dewberry Ave E to Riverside Dr	625 feet	25 feet
Senna Street	Shumway Rd to End	850 feet	40 feet



Washington State Transportation Improvement Board

TIB Members

Chair
Mayor Glenn Johnson
City of Pullman

Vice Chair
Councilmember Sam Low
Snohomish County

Amy Asher
Mason Transit Authority

Aaron Butters, PE
HW Lochner Inc.

Susan Carter
Hopelink

Kent Cash, PE
Port of Vancouver

Barbara Chamberlain
WSDOT

Elizabeth Chamberlain
City of Walla Walla

Dongho Chang, PE
WSDOT

Scott Chesney
Spokane County

Vicky Clarke
Cascade Bicycle Club/Washington Bikes

Mike Dahlem, PE
City of Sumner

Commissioner Al French
Spokane County

Councilmember Hilda González
City of Granger

Commissioner Scott Hutsell
Lincoln County

Les Reardanz
Whatcom Transportation Authority

Peter Rogalsky, PE
City of Richland

Mayor Kim Roscoe
City of Fife

Maria Thomas
Office of Financial Management

Jennifer Walker
Thurston County

Jane Wall
County Road Administration Board

December 1, 2023

Mr. Wayne Beetchenow
Public Works Director
City of Omak
Post Office Box 72
Omak, WA 98841-0072

Dear Mr. Beetchenow:

Congratulations! We are pleased to announce the selection of your project, 2024 Chip Seal, Multiple Locations, TIB project number 2-E-987(009)-1.

TIB is awarding 95.0002% of approved eligible project costs with a maximum grant of \$61,429.

Before any work is permitted on this project, you must complete and email the following items to your TIB engineer:

- Verify the information on the attached Project Funding Status Form and, revise if necessary. Sign and email a copy.
- Sign and email one copy of the Fuel Tax Grant Distribution Agreement.

You may only incur reimbursable expenses after you receive approval from TIB.

In accordance with RCW 47.26.084, you must certify full funding by December 2, 2024 or the grant may be terminated. Grants may also be rescinded due to unreasonable project delay as described in WAC 479-05-211.

If you have questions, please contact Andrew Beagle, TIB Project Engineer, at AndrewB@TIB.wa.gov.

Sincerely,

Ashley Probart
Executive Director

Enclosures

Ashley Probart
Executive Director

P.O. Box 40901
Olympia, WA 98504-0901
Phone: 360-586-1140
Fax: 360-586-1165
www.tib.wa.gov

MEMORANDUM

To: Omak City Council
Cindy Gagné, Mayor

From: Wayne Beetchenow, Public Works Director

Date: February 5, 2024

Subject: Resolution 12-2024 - Central Ave Reconstruction Phase II Project

The Attached Resolution 12-2024, **A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING THE GRANT AGREEMENT BETWEEN THE CITY OF OMAK AND THE WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD FOR CENTRAL AVE RECONSTRUCTION PHASE II PROJECT 6-E-987(008)-1**, is forwarded for your consideration.

The Transportation Improvement Board has awarded a grant to reconstruct the west end to Central Avenue. This is Phase II of the project that rebuilt West Central Avenue and part of North Ash Street.

I support this resolution and recommend its approval.

RESOLUTION NO. 12-2024

**A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING THE GRANT
AGREEMENT BETWEEN THE CITY OF OMAK AND THE WASHINGTON STATE
TRANSPORTATION IMPROVEMENT BOARD FOR CENTRAL AVE
RECONSTRUCTION PHASE II PROJECT 6-E-987(008)-1**

WHEREAS, the City of Omak has been awarded funding from the Washington State Transportation Improvement Board (TIB) for Central Ave Reconstruction Phase II Project; and

WHEREAS, the total project is estimated at \$989,900, of which the Transportation Improvement Board will pay a maximum grant of \$940,405, and the City will provide the required match of \$49,495; and

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Omak, Washington accepts the grant agreement between the City of Omak and the Transportation Improvement Board, a copy of which is attached hereto as Exhibit "A". The Mayor is authorized to execute the Grant Agreement on behalf of the city.

INTRODUCED and passed this _____ day of _____, 2024.

APPROVED:

Michael Foth, Mayor Pro-Tem

ATTEST:

Connie Thomas, City Clerk

APPROVED AS TO FORM:

Michael D. Howe, City Attorney



City of Omak
6-E-987(008)-1
Central Ave Reconstruction Phase II
Cedar St to Fir St

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Omak
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the Central Ave Reconstruction Phase II, Cedar St to Fir St (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of Omak, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

For the project specified above, TIB shall pay 95.0000 percent of approved eligible project costs up to the amount of \$940,405, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT's Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT's submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as



often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable amounts are greater than \$50,000. If progress billings are not submitted, large payments may be delayed or scheduled in a payment plan.

5.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through closeout of the grant or until terminated as provided herein, but shall not exceed 10 years unless amended by the Parties.

6.0 AMENDMENTS

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

7.0 ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

8.0 GOVERNANCE & VENUE

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

9.0 DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) In response to the notice, RECIPIENT shall provide a written response within 10 business days of receipt of TIB's notice of non-compliance, which should include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details.
- c) TIB will provide 30 days for RECIPIENT to make reasonable progress toward compliance pursuant to its plan to correct or implement its amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold further payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:



- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

9.3 TERMINATION

- a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.
- b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose.

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the maximum payable TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060. If an increase is denied, the recipient shall be liable for all costs incurred in excess of the maximum amount payable by TIB. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the intended ratio between TIB funds and total project costs, as described in Section 1.0 of this Agreement.



12.0 INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

Each of the PARTIES, shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that PARTY's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other PARTY. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence. Each of the PARTIES agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to the other PARTY only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing PARTY shall be entitled to recover its reasonable attorney's fees and costs incurred from the other PARTY. The obligations of this Section shall survive termination of this Agreement.

14.0 DISPUTE RESOLUTION

- a) The PARTIES shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this AGREEMENT.
- b) Informal Resolution. The PARTIES shall use their best efforts to resolve disputes promptly and at the lowest organizational level.
- c) In the event that the PARTIES are unable to resolve the dispute, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The PARTIES shall share equally in the cost of the mediator.
- d) Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.
- e) The PARTIES agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.



15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain books, records, documents, data and other evidence 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. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

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

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer

Date

Executive Director

Date

Print Name

Print Name



Transportation Improvement Board

Project Funding Status Form

Agency Name: **OMAK**
Project Name: **Central Ave Reconstruction Phase II**
Cedar St to Fir St

TIB Project Number: **6-E-987(008)-1**

Verify the information below and revise if necessary.

Email to: andrewb@tib.wa.gov

PROJECT SCHEDULE

Target Dates		
Construction Approval	Contract Bid Award	Contract Completion

PROJECT FUNDING PARTNERS

List additional funding partners and amount.

Funding Partners	Amount	Revised Funding
OMAK	49,495	
WSDOT	0	
Federal Funds	0	
TOTAL LOCAL FUNDS	49,495	

Signatures are required from two different agency officials. Return the originally signed form to your TIB Engineer.

Mayor or Public Works Director

Signature

Date

Printed or Typed Name

Title

Financial Officer

Signature

Date

Printed or Typed Name

Title



Washington State Transportation Improvement Board

TIB Members

Chair
Mayor Glenn Johnson
City of Pullman

Vice Chair
Councilmember Sam Low
Snohomish County

Amy Asher
Mason Transit Authority

Aaron Butters, PE
HW Lochner Inc.

Susan Carter
Hopelink

Kent Cash, PE
Port of Vancouver

Barbara Chamberlain
WSDOT

Elizabeth Chamberlain
City of Walla Walla

Dongho Chang, PE
WSDOT

Scott Chesney
Spokane County

Vicky Clarke
Cascade Bicycle Club/Washington Bikes

Mike Dahlem, PE
City of Sumner

Commissioner Al French
Spokane County

Councilmember Hilda González
City of Granger

Commissioner Scott Hutsell
Lincoln County

Les Reardanz
Whatcom Transportation Authority

Peter Rogalsky, PE
City of Richland

Mayor Kim Roscoe
City of Fife

Maria Thomas
Office of Financial Management

Jennifer Walker
Thurston County

Jane Wall
County Road Administration Board

Ashley Probart
Executive Director

P.O. Box 40901
Olympia, WA 98504-0901
Phone: 360-586-1140
Fax: 360-586-1165
www.tib.wa.gov

December 1, 2023

Mr. Wayne Beetchenow
Public Works Director
City of Omak
Post Office Box 72
Omak, WA 98841-0072

Dear Mr. Beetchenow:

Congratulations! We are pleased to announce the selection of your project, Central Ave Reconstruction Phase II, Cedar St to Fir St, TIB project number 6-E-987(008)-1.

TIB is awarding 95.0000% of approved eligible project costs with a maximum grant of \$940,405.

Before any work is permitted on this project, you must complete and email the following items to your TIB engineer:

- Verify the information on the attached Project Funding Status Form and, revise if necessary. Sign and email a copy.
- Submit the section of your adopted Six Year Transportation Improvement Plan listing this project;
- Sign and email one copy of the Fuel Tax Grant Distribution Agreement.

You may only incur reimbursable expenses after you receive approval from TIB.

In accordance with RCW 47.26.084, you must certify full funding by December 2, 2024 or the grant may be terminated. Grants may also be rescinded due to unreasonable project delay as described in WAC 479-05-211.

If you have questions, please contact Andrew Beagle, TIB Project Engineer, at AndrewB@TIB.wa.gov.

Sincerely,

Ashley Probart
Executive Director

Enclosures

MEMORANDUM

To: Omak City Council
Cindy Gagné, Mayor

From: Wayne Beetchenow, Public Works Director

Date: February 5, 2024

Subject: Resolution No. 13-2024 - TIB Jonathan Ave Construction Project

The Attached Resolution No. 13-2024, **A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING THE GRANT AGREEMENT BETWEEN THE CITY OF OMAK AND THE WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD FOR JONATHAN AVE CONSTRUCTION PROJECT. TIB PROJECT NUMBER 6-E-987(007)-1**, is forwarded for your consideration.

The Transportation Improvement Board has awarded a grant to complete construction of Jonathon Street from Quince St. to Oak St.

I support this resolution and recommend its approval.

RESOLUTION NO. 13-2024

**A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING THE GRANT
AGREEMENT BETWEEN THE CITY OF OMAK AND THE WASHINGTON STATE
TRANSPORTATION IMPROVEMENT BOARD FOR JONATHAN AVE
CONSTRUCTION PROJECT 6-E-987(007)-1**

WHEREAS, the City of Omak has been awarded funding from the Washington State Transportation Improvement Board (TIB) for the Jonathan Ave Construction Project; and

WHEREAS, the total project is estimated at \$834,000, of which the Transportation Improvement Board will pay a maximum grant of \$792,300, and the City will provide the required match of \$41,700; and

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Omak, Washington accepts the grant agreement between the City of Omak and the Transportation Improvement Board, a copy of which is attached hereto as Exhibit "A". The Mayor is authorized to execute the Grant Agreement on behalf of the city.

INTRODUCED and passed this _____ day of _____, 2024.

APPROVED:

Michael Foth, Mayor Pro-Tem

ATTEST:

Connie Thomas, City Clerk

APPROVED AS TO FORM:

Michael D. Howe, City Attorney



City of Omak
6-E-987(007)-1
Jonathan Avenue
Pine St to Quince St

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Omak
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the Jonathan Avenue, Pine St to Quince St (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of Omak, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

For the project specified above, TIB shall pay 95.0000 percent of approved eligible project costs up to the amount of \$792,300, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT's Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT's submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as



often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable amounts are greater than \$50,000. If progress billings are not submitted, large payments may be delayed or scheduled in a payment plan.

5.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through closeout of the grant or until terminated as provided herein, but shall not exceed 10 years unless amended by the Parties.

6.0 AMENDMENTS

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

7.0 ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

8.0 GOVERNANCE & VENUE

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

9.0 DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) In response to the notice, RECIPIENT shall provide a written response within 10 business days of receipt of TIB's notice of non-compliance, which should include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details.
- c) TIB will provide 30 days for RECIPIENT to make reasonable progress toward compliance pursuant to its plan to correct or implement its amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold further payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:



- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

9.3 TERMINATION

- a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.
- b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose.

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the maximum payable TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060. If an increase is denied, the recipient shall be liable for all costs incurred in excess of the maximum amount payable by TIB. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the intended ratio between TIB funds and total project costs, as described in Section 1.0 of this Agreement.



12.0 INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

Each of the PARTIES, shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that PARTY's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other PARTY. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence. Each of the PARTIES agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to the other PARTY only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing PARTY shall be entitled to recover its reasonable attorney's fees and costs incurred from the other PARTY. The obligations of this Section shall survive termination of this Agreement.

14.0 DISPUTE RESOLUTION

- a) The PARTIES shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this AGREEMENT.
- b) Informal Resolution. The PARTIES shall use their best efforts to resolve disputes promptly and at the lowest organizational level.
- c) In the event that the PARTIES are unable to resolve the dispute, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The PARTIES shall share equally in the cost of the mediator.
- d) Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.
- e) The PARTIES agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.



15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain books, records, documents, data and other evidence 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. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

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

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer

Date

Executive Director

Date

Print Name

Print Name



Transportation Improvement Board

Project Funding Status Form

Agency Name **OMAK**
Project Name: **Jonathan Avenue**
Pine St to Quince St

TIB Project Number: **6-E-987(007)-1**

Verify the information below and revise if necessary.

Email to: andrewb@tib.wa.gov

PROJECT SCHEDULE

Target Dates		
Construction Approval	Contract Bid Award	Contract Completion

PROJECT FUNDING PARTNERS

List additional funding partners and amount.

Funding Partners	Amount	Revised Funding
OMAK	41,700	
WSDOT	0	
Federal Funds	0	
TOTAL LOCAL FUNDS	41,700	

Signatures are required from two different agency officials. Return the originally signed form to your TIB Engineer.

Mayor or Public Works Director

Signature

Date

Printed or Typed Name

Title

Financial Officer

Signature

Date

Printed or Typed Name

Title



Washington State Transportation Improvement Board

TIB Members

Chair
Mayor Glenn Johnson
City of Pullman

Vice Chair
Councilmember Sam Low
Snohomish County

Amy Asher
Mason Transit Authority

Aaron Butters, PE
HW Lochner Inc.

Susan Carter
Hopelink

Kent Cash, PE
Port of Vancouver

Barbara Chamberlain
WSDOT

Elizabeth Chamberlain
City of Walla Walla

Dongho Chang, PE
WSDOT

Scott Chesney
Spokane County

Vicky Clarke
Cascade Bicycle Club/Washington Bikes

Mike Dahlem, PE
City of Sumner

Commissioner Al French
Spokane County

Councilmember Hilda González
City of Granger

Commissioner Scott Hutsell
Lincoln County

Les Reardanz
Whatcom Transportation Authority

Peter Rogalsky, PE
City of Richland

Mayor Kim Roscoe
City of Fife

Maria Thomas
Office of Financial Management

Jennifer Walker
Thurston County

Jane Wall
County Road Administration Board

Ashley Probart
Executive Director

P.O. Box 40901
Olympia, WA 98504-0901
Phone: 360-586-1140
Fax: 360-586-1165
www.tib.wa.gov

December 1, 2023

Mr. Wayne Beetchenow
Public Works Director
City of Omak
Post Office Box 72
Omak, WA 98841-0072

Dear Mr. Beetchenow:

Congratulations! We are pleased to announce the selection of your project, Jonathan Avenue, Pine St to Quince St, TIB project number 6-E-987(007)-1.

TIB is awarding 95.0000% of approved eligible project costs with a maximum grant of \$792,300.

Before any work is permitted on this project, you must complete and email the following items to your TIB engineer:

- Verify the information on the attached Project Funding Status Form and, revise if necessary. Sign and email a copy.
- Submit the section of your adopted Six Year Transportation Improvement Plan listing this project;
- Sign and email one copy of the Fuel Tax Grant Distribution Agreement.

You may only incur reimbursable expenses after you receive approval from TIB.

In accordance with RCW 47.26.084, you must certify full funding by December 2, 2024 or the grant may be terminated. Grants may also be rescinded due to unreasonable project delay as described in WAC 479-05-211.

If you have questions, please contact Andrew Beagle, TIB Project Engineer, at AndrewB@TIB.wa.gov.

Sincerely,

Ashley Probart
Executive Director

Enclosures

MEMORANDUM

To: Omak City Council
Cindy Gagné, Mayor

From: Todd McDaniel

Date: February 5, 2024

Subject: Resolution No. 14-2024 - MOU NCW Libraries Improvement

Attached Resolution 14-2024, approving a Memorandum of Understanding with North Central Washington Libraries for Library Improvements, is forwarded for your consideration.

NCW libraires has secured resources for improvements to the City of Omak owned Library facility. An MOU has been prepared to recognize the responsibility and support of the project.

The Project is focused on interior improvements. The project improvements will be determined through community and stakeholder input. These improvements will obligate the city to ensure the improved library facility is available for library use, for the 10 years following the completion of the project.

I support this Resolution and urge its Adoption.

RESOLUTION NO. 14-2024

**A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING A
MEMORANDUM OF UNDERSTANDING WITH NORTH CENTRAL
WASHINGTON LIBRARIES FOR LIBRARY IMPROVEMENTS**

WHEREAS, the City has a long running agreement with the North Central Washington Library (NCW) to provide a space for them to operate a public library serving residents of Omak and the surrounding area; and,

WHEREAS, NCW Libraries has adopted library facilities plan that includes planning for the renovation and improvements of the Omak Library facility, and

WHEREAS, a Memorandum of Understanding (MOU) has been prepared to establish each party's responsibility for project improvements before, during, and after the project is complete; and

WHEREAS, improvements to the Library will provide for greater public use and ensure its continued operation for the foreseeable future.

NOW, THEREFORE BE IT RESOLVED that the Omak City Council hereby approves the MOU between the City of Omak and NCW Libraries, attached hereto as Exhibit "A", for library improvements, and the Mayor is authorized to execute and the on behalf of the City.

.PASSED AND APPROVED this _____ day of _____, 2024.

SIGNED:

Michael Foth, Mayor Pro-Tem

ATTEST:

Connie Thomas, City Clerk

APPROVED AS TO FORM:

Michael Howe, City Attorney

**MEMORANDUM OF UNDERSTANDING
FOR
LIBRARY IMPROVEMENT PROJECT**

This Memorandum of Understanding (“MOU”) is entered into on [DATE] by and between NORTH CENTRAL WASHINGTON LIBRARIES, an inter-county rural library district (“NCW Libraries”), and the City of Omak, a Washington municipal corporation (“the City”), collectively referred to as the “Parties” or individually as “Party”.

I. RECITALS

WHEREAS, the City has either annexed to or contracted with NCW Libraries for the delivery of library services by NCW Libraries for or on behalf of the City; and

WHEREAS, the City has provided a building or space within a building for NCW Libraries to occupy and operate as a public library facility at 30 South Ash, Omak, WA 98841; and

WHEREAS, the Parties have previously entered into a Building Use and Maintenance Agreement (“Maintenance Agreement”) that establishes a mutual desire for continued operation of a public library facility in Omak, Washington and

WHEREAS, NCW Libraries has adopted a library facilities improvement plan that contemplates and provides for certain improvements to be made to library branch facilities throughout the jurisdiction; and

WHEREAS, the Parties desire to enter into this MOU to provide for improvements to the City-owned facility (also referred to as “library quarters” in the Maintenance Agreement) occupied by NCW Libraries; and

WHEREAS, the improvements provided for in this MOU will allow NCW Libraries to provide the best library service to the greatest number of people;

NOW, THEREFORE, in consideration of the covenants set forth in this MOU, NCW Libraries and the City do hereby agree as follows:

II. AGREEMENT

A. RECITALS.

The recitals set forth above are incorporated herein as if set forth in full as binding commitments of the Parties.

B. PURPOSE

The purpose of this MOU is to define the scope of library improvements to be provided by NCW Libraries to the City’s local library facility(“project”), and establish each Party’s responsibility regarding project improvements before, during, and after the work on the project is completed.

C. FUNDING SOURCES

NCW Libraries’ Board of Trustees has established a fund to pay for interior improvements to public libraries that are occupied, but not owned, by NCW Libraries across their five-county library district.

NCW Libraries will fund the project through direct payment for goods and services to qualified vendors. NCW Libraries reserves the right to select all vendors, goods, and services used for the project at its sole discretion.

Funds available may be insufficient to improve all in-scope areas of the project as defined in section D of this MOU. NCW Libraries may choose to seek additional sources of funding where eligible but is not obligated to do so. NCW Libraries may also advise the City of additional sources of funding for which they may be eligible to help complete the project if NCW Libraries' funds are insufficient. Each Party will notify the other if they choose to seek additional funding sources and will update the other party on the status and disbursement of additional funds related to the project.

Any disbursement of funds in the form of rebates, refunds, grants, or other incentives will be the property of the Party which submitted application for the funds or is named as the recipient, unless otherwise arranged in writing prior to application for the funds.

D. SCOPE OF PROJECT IMPROVEMENTS & SERVICES.

The following areas of work and services are within the scope of the project and eligible for funding by NCW Libraries: architect and interior design fees; permitting; rentals and equipment; furniture; fixtures; shelving; technology upgrades and related wiring; wall coverings; flooring; lighting and related wiring; security upgrades; ADA compliance and accessibility; staff workroom, breakroom, and storage areas; and interior wayfinding.

The following areas of work and/or services are outside the scope of the project and not eligible for funding by NCW Libraries: structural improvements to the building's foundation, envelope, or roof; major system improvements, including to the HVAC, plumbing or electrical wiring systems; and landscaping; and hazardous materials testing and abatement.

E. SQUARE FOOTAGE ELIGIBLE FOR IMPROVEMENT.

The in-scope square footage to be improved as part of the project is 5279.

If at any point between the signing of this MOU and the commencement of the project both Parties agree in writing to change the in-scope square footage, a new agreement or MOU will be signed to reflect this change.

F. AGREEMENT TO COLLABORATE.

The City shall collaborate with NCW Libraries to develop a plan for the improvement project that is responsive to the community's needs.

NCW Libraries will:

- Implement community engagement activities designed to meet NCW Libraries' goals of building and strengthening community partnerships, increasing usership of local libraries, and gathering input from residents to inform the design and scope of improvements.
- Manage publicity and serve as primary point of contact for media inquiries about the project.

- Contract with an Interior Design Firm, Architectural Firm, Contractors, and/or Sub-Contractors (“Vendors”) as needed to manage and complete the in-scope work as defined in Section D of this MOU.
- Serve as a liaison between Vendors and the City.
- Provide the City a project timeline and regular status updates on the project.

The City will:

- Make available any information that has bearing on the project.
- Allow access to the local library building to facilitate completion of the project.
- Provide clear support and sponsorship of the project to local stakeholders, media outlets, and the community at large.
- Participate in and help coordinate community engagement efforts and encourage other local stakeholders and community members to participate.

Both Parties will:

- Immediately inform the other Party of any developments that might jeopardize the successful achievement of the project.
- Be accessible and return calls or emails within 48 hours, except for pre-communicated circumstances, such as vacation or travel.

G. PERMISSION TO MAKE IMPROVEMENTS.

The City grants NCW Libraries permission to make tenant improvements related to the project to any and all portions of the in-scope square footage identified in Section E of this MOU except as noted below; provided, however, that NCW Libraries shall provide opportunity for the City to review and comment on design concepts or proposals throughout the design phase. NCW Libraries will, to the best of its ability, protect and preserve the following enumerated items that are of significance to the City for the duration of the project:

No Restrictions

H. OWNERSHIP OF IMPROVEMENTS.

At the conclusion of the project, except as otherwise provided herein, improvements to the building and fixtures permanently or substantially attached to the building (i.e. incapable of being removed without significant damage) will become the property of the City. However, NCW Libraries shall retain ownership of all other project improvements, including shelving, furnishings, artwork, other personal property, and other items which might be fixtures but are readily removed without significant damage to the building. NCW Libraries retains the right to replace, remove, or relocate throughout its service area any shelving, furnishings, artwork, or other items at any time and for any reason.

Nothing in this MOU shall in any way affect the City ownership of their building or either Party's ownership of any other property.

I. FUTURE IMPROVEMENTS.

Upon completion of the project the City will cooperate with NCW Libraries to ensure that any future repair or replacement of any improved item or area proposed by the City and previously installed as part of the project will match the product that was provided by NCW Libraries for the project or be a product of equal or greater quality as mutually agreed upon by the Parties. Maintenance, repair, or painting on the exterior of the building will adhere to NCW Libraries design standards where applicable and be undertaken with NCW Libraries knowledge and involvement.

J. OCCUPANCY TERMS.

The Parties are expected to execute a Maintenance Agreement covering at least ten (10) years, consisting of the original six (6) year term and any subsequent renewal/extension terms. In the event the City attempts to terminate the Maintenance Agreement and/or relocate library services to a new public library facility in Omak, WA within ten (10) years of project completion, NCW Libraries shall reserve the right to charge the City the depreciated value of the project improvements deemed owned by the City as set forth in Section H, including any design work or fees upon relocation as compensation for NCW Libraries' investment.

K. OBSERVED DEFICIENCIES.

The City is aware of the following observed deficiencies in the library branch facility and acknowledges that NCW Libraries is unable to take responsibility for addressing them as part of the project or at any point after the completion of the project. No later than three (3) months prior to the project start date, the City will provide NCW libraries with a written plan that outlines how and when the City plans to address these deficiencies.

Observed Deficiencies

- None noted.

L. DURATION; TERMINATION.

Unless earlier terminated as further set forth herein, this MOU shall be effective upon the last date of signature by all Parties ("effective date") and shall remain in effect for a period of ten (10) years from the date of project completion (as determined by NCW Libraries).

In the event that the City fails to observe or perform any of the covenants, conditions, or provisions of this MOU, NCW Libraries shall provide written notice of such default to the City. If such default continues for a period of thirty (30) days after the written notice, NCW Libraries may terminate this MOU; provided, however, that if the nature of the City default is such that more than thirty (30) days are reasonably required for its cure, then the City shall not be deemed to be in default if the City commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion. In the event of such early termination, NCW Libraries shall invoice the City for the actual cost or depreciated value of the project improvements deemed owned by the the City as set forth in Section H, including any design work and fees, which invoice shall be paid within thirty (30) days of receipt by the City.

M. INDEMNIFICATION.

The City shall hold harmless, indemnify and defend NCW Libraries, its trustees, officers, agents and employees, from and against any and all claims, losses, or liability for injuries rising out of any willful

misconduct or negligent act, error, or omission of the City, or its agents or employees, in connection with the provision of services required by this MOU, provided however, the City obligation to indemnify, defend and hold harmless shall not exceed loss, liability, or injuries caused by or resulting from the sole willful misconduct or sole negligence of NCW Libraries, its trustees, officers, agents or employees.

NCW Libraries will hold harmless, indemnify and defend the City its officials, officers, directors, agents and employees, from and against any and all claims, losses, or liability for injuries rising out of any willful misconduct or negligent act, error, or omission of NCW Libraries, or its trustees, officers, agents or employees, in connection with the provision of services required by this MOU, provided however, NCW Libraries' obligation to indemnify, defend and hold harmless shall not exceed loss, liability, or injuries caused by or resulting from the sole willful misconduct or sole negligence of the City its trustees, officers, agents or employees.

N. ENTIRE MEMORANDUM.

This MOU and the applicable Maintenance Agreement constitute the parties' entire agreement with respect to the subject matter hereof and supersedes any and all prior statements or agreements, both written and oral. This MOU may not be amended except by a written amendment signed by both Parties. In the event of a conflict between this MOU and the Building Use and Maintenance Agreement, the terms, and conditions of the Building Use and Maintenance Agreement shall prevail.

O. COUNTERPART & ELECTRONIC SIGNATURES.

This MOU may be signed in counterparts, each of which shall be an original, but all of which shall constitute one and the same MOU. Signatures transmitted by facsimile or via PDF email shall be deemed valid execution of this MOU, binding on the Parties.

NCW LIBRARIES

By: _____
Barbara Walters, Executive Director

Date: _____

Date: _____

CITY OF OMAK

By: _____