



SELAH CITY COUNCIL

July 12, 2022

5:30pm: Regular Scheduled Meeting

Each item on the Council Agenda is covered by an
Agenda Item Sheet (AIS)

A yellow AIS indicates an action item.

A blue AIS indicates an information/non-action



Selah City Council
Meeting Date: 7/12/2022
5:30pm: Regular Meeting

Mayor:
Mayor Pro Temp:
Council Members:

Sherry Raymond
Russell Carlson
Kevin Wickenhagen
Jared Iverson
Elizabeth Marquis
Clifford Peterson
Roger Bell
Michael Costello

City of Selah
115 W. Naches Ave
Selah, WA 98942

City Administrator:
City Attorney:
Clerk/Treasurer:

Joe Henne
Rob Case
Dale Novobielski

AGENDA

- A. **Call to Order – Mayor Raymond**
- B. **Roll Call**
- C. **Councilmember Absence**
- D. **Pledge of Allegiance**
- E. **Invocation**
- F. **Agenda Changes**
- G. **Public Appearances/Introductions/Presentations**
 - 1. Katrina Henkle, Selah Downtown Association – Update
 - 2. Mike Johnson, CEO Yakima Union Gospel Mission
 - 3. Dena Johnson, Dena Johnson Counseling; Attachment & Trauma Informed Care for Adults & Families, Specializing in Foster/Adopted Children
- H. **Getting To Know Our Businesses** **None**
- I. **Communications**

The City of Selah is a non-charter code city and we are presently conducting a regular meeting between the Mayor and City Council. A maximum of thirty minutes will be allotted for public comments. Common-sense standards of decorum apply. Comments must be respectful; no profanity or insults are allowed. Comments must pertain to City business and official actions. Constructive criticism of City officials is allowed, but defamation, personal attacks and impertinent assertions are not allowed. Commenters are limited to one comment per meeting and a maximum of two minutes. City staff may disallow or modify any comment that is deemed inappropriate. These standards are subject to revision.

- | | | |
|----|---------|-------------|
| 1. | Oral | None |
| 2. | Written | None |

J. **Proclamations/Announcements** **None**

K. **Consent Agenda**

All items listed with an asterisk (*) are considered routine by the City Council and will be enacted by one motion, without discussion. Should any Council Member request that any item of the Consent Agenda be considered separately, that item will be removed from the Consent Agenda and become a part of the regular Agenda.

- | | |
|--------------------|---|
| * Treesa Morales | 1. Approval of Minutes: June 14, 2022 Study Session and Council Meeting |
| * Dale Novobielski | 2. Approval of Claims & Payroll |

L. **Public Hearings** **None**

M. **General Business**

- | | |
|-----------------|-------------|
| 1. New Business | None |
| 2. Old Business | None |

N. **Resolutions**

- | | | |
|------------------|-----|--|
| Rocky
Wallace | N-1 | Resolution Authorizing the Mayor to sign a Construction Contract between the City of Selah and Central Paving, LLC, of Ellensburg, WA for the 2022 Crack Seal Project. |
| Rocky
Wallace | N-2 | Resolution Authorizing the Mayor to Sign, on Behalf of the City, Change Order No.3 with Belsaas & Smith Construction, Inc., for Work on Certain Components of the Selah Wastewater Collections Improvements Project. |
| Rocky
Wallace | N-3 | Resolution Authorizing the Mayor to Sign, on Behalf of the City, an Amendment to the Owner-Engineer Agreement (Amendment No. 01) with HLA Engineering and Land Surveying, Inc., for Work on Certain Components of the Selah Wastewater Collections Improvements Project. |
| Rob Case | N-4 | Resolution Authorizing the Mayor to Sign a Twenty-Eight Page Business Licensing Services Agreement with the Department of Revenue |

O. Ordinances

Dale Novobielski	O-1	Ordinance Amending the 2022 Budget for Citywide Street Crack Sealing
Rob Case	O-2	An Ordinance of the City of Selah, Washington, Providing for the Submission to the Voters of the City at a Special Election to be Held on November 8, 2022, in Conjunction with the State Election to be Held on the Same Date, of a Proposition Authorizing the City to Issue General Obligation Bonds in the Aggregate Principal Amount of no more than \$12,700,000 for the Purpose of Paying Costs of Constructing a Law and Justice Center, the Principal of and Interest Payments on such Bonds to be Payable from Annual Excess Property Tax Levies; Designating the City Administrator and Bond Counsel to Receive Notice of Ballot Title from the Yakima County Auditor; and Providing for Related Matters.

P. Public Appearances **None**

Q. Reports/Announcements

1. Departments
2. Council Members
3. City Administrator
4. Boards
5. Mayor

R. Executive Session **None**

S. Adjournment

Next Regular Meeting: July 26, 2022



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 7/12/2022

Agenda Number: K-1

Action Item

Title: Approval of Minutes, June 14, 2022 Council Meeting

From: Treesa Morales, Public Records Officer

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: N/A

Funding Source: N/A

Background/Findings/Facts: N/A

Recommended Motion: I move to approve the Consent Agenda in the form presented (This item is part of the consent agenda).

Record of all prior actions taken by the City Council and/or City Board, City Committee, Planning Commission, or the Hearing Examiner (if not applicable, please state none).

Date: **Action Taken:** None

City of Selah
City Council Meeting Minutes
June 14, 2022
Regular Meeting

- A. Call to Order: Mayor Raymond called the meeting to order at 5:30 pm.
- B. Roll Call
- Members Present: Kevin Wickenhagen; Elizabeth Marquis; Clifford Peterson; Roger Bell; Russell Carlson, Jared Iverson, Michael Costello
- Staff Present: Joe Henne, City Administrator; Rob Case, City Attorney; Richard Brumley, Lieutenant, Selah PD; James Lange, Fire Chief; Zack Schab, Recreation Director; Rocky Wallace, Public Works Director; Dale Novobielski, City Clerk/Treasurer, Jeff Peters, Community Development Supervisor; Treesa Morales, Public Records Manager.
- C. Councilmember Absence None
- D. Pledge of Allegiance
- E. Invocation: Darin Brown from Harvest Community Church gave prayer
- F. Agenda Changes
Mayor Raymond notified the council that a discussion would be added to Old Business regarding UTV's, and a change order with Belsaas Construction was being added to the resolutions as item N-7.
- G. Public Appearances/Introductions/Presentations
1. Katrina Henkle from the Selah Downtown Association gave report and reminded council of the Sip 'n' Stroll event on June 18, 2022.
- H. Getting To Know Our Businesses **None**
- I. Communications **None**
- J. Proclamations/Announcements **None**
- K. Consent Agenda (all items listed with an asterisk (*) are considered part of the consent agenda and are enacted in one motion).

Councilmember Peterson moved to approve the consent agenda with the following amendment to the May 24th meeting minutes under item B regarding the motion to

excuse: Change the absent member from Councilmember Carlson to Councilmember Costello. Councilmember Carlson seconded. By voice vote, motion passes.

Public Records Manager, Treesa Morales, read the Consent Agenda:

- | | | |
|-------------------|----|---|
| *Treesa Morales | 1. | Approval of Minutes: May 24, 2022 Council Meeting |
| *Dale Novobielski | 2. | Approval of Claims and Payroll:
Payroll Checks No. 84934-84980 for a total of \$565,046.89
Claim Checks No. 178244-178389 for a total of \$1,089,064.73 |

L. Public Hearings

1. Public Hearing to Consider the Resolution adopting the Six Year Transportation Improvement Program for Secondary and Arterial Streets within the City of Selah for the years 2023 to 2028

Introduced by Mayor Raymond and presented Public Works Director Rocky Wallace. Mr. Wallace provide information regarding the projects listed in the packet and available for comment.

Mayor Raymond opened the public meeting at 5:36pm.

Seeing no one come forward for comment, Mayor Raymond closed the public hearing at 5:37pm

N-1 **Relocated**

Resolution adopting the Six Year Transportation Improvement Program for Secondary and Collector Arterial Streets within the City of Selah for the years 2023 to 2028.

Introduced by Mayor Raymond, and presented by Public Works Director, Rocky Wallace. After discussion,

Councilmember Bell moved, and Councilmember Costello seconded, to approve the Resolution adopting the Six Year Transportation Improvement Program for Secondary and Arterial Streets within the City of Selah for the years 2023 to 2028.

Mayor restated motion. Roll was called: Councilmember Wickenhagen – yes; Councilmember Iverson – yes; Councilmember Marquis – yes; Councilmember Peterson – yes; Councilmember Bell – yes; Councilmember Costello – yes; Councilmember Carlson – yes. By voice vote, Resolution passes unanimously.

M. General Business

1. New Business None

2. Old Business

Mayor Raymond addressed the council on their desire to have Staff draft a policy for Utility Terrain Vehicle (UTV) use on city streets.

Councilmember Wickenhagen moved to request staff proceed with drafting a policy for UTV's on city roadways. Councilmember Costello seconded.

Discussion Followed:

Councilmember Marquis asked what staff and Council thought the policy should include. City Attorney Rob Case stated that the motion on the table allows staff to draft the policy per the previous study sessions and meetings from Council; after which Council will review and provide feedback on necessary changes.

Councilmember Carlson reminded Council of the potential risk involved, and requested feedback from Selah PD Lieutenant Brumley. Lt Brumley stated he wasn't sure of potential increase in calls until it is permitted, but it could certainly affect workflow. Councilmember Carlson addressed Fire Chief Lange, asked if he had heard anything in the County. Chief Lange said he hadn't received any feedback from Yakima.

Councilmember Peterson asked if Staff wanted specific direction. City Administrator Henne stated that staff understands Council's concerns and but needed confirmation that Council was ready for Staff to draft a policy.

Mayor restated motion. Roll was called: Councilmember Wickenhagen – yes; Councilmember Iverson – yes; Councilmember Marquis – no; Councilmember Peterson – yes; Councilmember Bell – yes; Councilmember Costello – yes; Councilmember Carlson – no. Motion passes with 5 yes votes and 2 no votes.

N. Resolutions

N-1 Resolution was relocated after the public hearing. See above.

N-2 Resolution Authorizing the Mayor to Sign an Eight-Page Letter Agreement with D.A. Davidson & Company with Regard to Issuance of Bond(s) for the Proposed Justice Center.

Introduced by Mayor Raymond, and presented by City Attorney, Rob Case. After discussion,

Councilmember Wickenhagen moved, and Councilmember Iverson seconded, to approve the Resolution Authorizing the Mayor to Sign an Eight-Page Letter Agreement with D.A.

Davidson & Company with Regard to Issuance of Bond(s) for the Proposed Justice Center.

Roll was called: Councilmember Wickenhagen – yes; Councilmember Iverson – yes; Councilmember Marquis – yes; Councilmember Peterson – yes; Councilmember Bell – yes; Councilmember Costello – yes; Councilmember Carlson – yes. By voice vote, Resolution passes unanimously.

N-3 Resolution Authorizing a ten percent match of the City’s ARPA funds and Authorizing the Public Works Director to sign the Yakima County ARPA Funding Application for Park, Street, and Water improvements.

Introduced by Mayor Raymond, and presented by Public Works Director, Rocky Wallace.

Councilmember Wickenhagen moved, and Councilmember Marquis seconded, to approve the Resolution Authorizing a Ten Percent Match of the City’s ARPA funds and Authorizing the Public Works Director to sign the Yakima County ARPA Funding Application for Park, Street, and Water improvements.

Discussion Followed:

Councilmember Carlson asked questions about the tennis courts project. Mr. Wallace stated that the tennis courts were removed as part of this project packet as they are scheduled to be completely redone as part of a stand-alone project.

Councilmember Carlson asked if the lines on the maps were paved walkways. Mr. Wallace confirmed and said the path for Playland park is still being discussed.

Councilmember Carlson asked about the path at McGonagle, wondered if Selah National Little League was okay with it. Mr. Wallace stated it was just a continuation of a paved path that was already there.

Councilmember Wickenhagen asked if it was an all-or-nothing bundle or could the City choose to do some projects but not others. Mr. Wallace stated that the City can choose to do some, but others will depend on provided funds.

Councilmember Peterson asked about the Lyle Loop project. Mr. Wallace stated plans include improvement to the road.

Councilmember Peterson restated his concern that the Council was approving the use of ARPA funds not yet received. Again, requested a list of ARPA fund requests for all departments for Council to review and prioritize. Mr. Wallace reminded Councilmember Peterson that the requested funds in this Resolution were for fund originally designated for the Crusher Canyon project, which didn’t need to use as much as previously planned.

Councilmember Bell stated concerns that projects at McGonagle Park and Playland part are properties located within the County. Mr. Wallace stated that ARPA funding is County funding, so it shouldn't be a problem. City Administrator, Henne stated the County didn't have problems when the City built the parks, so it shouldn't be an issue now. Mr. Henne also stated it was why the support letter from WSDOT was so important.

Councilmember Carlson wondered if there was any priority in the list of projects. Wallace stated the pathways were primary, Carlon park improvements were secondary, then the water mains.

Councilmember Iverson asked Recreation Director, Zack Schab, about the value these projects would add to the parks, and also the improvements to the tennis courts, as the High School uses them a lot.

Mayor Raymond restated the motion. Roll was called: Councilmember Wickenhagen – yes; Councilmember Iverson – yes; Councilmember Marquis – yes; Councilmember Peterson – yes; Councilmember Bell – yes; Councilmember Costello – yes; Councilmember Carlson – yes. By voice vote, Resolution passes unanimously.

N-4 Resolution Declaring the Wood Field Athletic Fence at Carlon Park Project as Complete and Accepting Work and Materials.

Resolution was passed as part of the consent agenda.

N-5 Resolution Authorizing the Mayor to Sign a Seven-Page “Settlement Agreement” between the City, Codefendants and Plaintiffs on the SAFE Litigation, and Also Rescinding Prior Resolution No. 2895 with Regard to an Earlier Version of the Settlement Agreement.

Introduced by Mayor Raymond, and presented by City Attorney, Rob Case.

Councilmember Bell moved, and Councilmember Peterson seconded, to approve the Resolution Authorizing the Mayor to Sign a Seven-Page “Settlement Agreement” between the City, Codefendants and Plaintiffs on the SAFE Litigation, and Also Rescinding Prior Resolution No. 2895 with Regard to an Earlier Version of the Settlement Agreement.

Discussion Followed:

Councilmember Peterson asked how signatures would be collected. City Attorney Case stated each side would get signatures from their parties.

Councilmember Peterson asked how the name “Delores Huerta” was selected. Case stated it was the SAFE group's selection and was part of an earlier list SAFE had presented as names they were interested in using.

Councilmember Iverson asked if there would be any issues with this name as there was with the previous selection. Case stated he has no contract from Ms. Huerta stating such, but that he has an email from SAFE giving confirmation for use. Councilmember Iverson stated maybe the City should get proper certification for use of her name. Attorney Case said he could get something if the Council wanted.

Councilmember Carlson asked if a background check had been completed on Ms. Huerta. Attorney Case stated that the City has not done one, and does not know if SAFE has, either. Councilmember Peterson said he did a search on her name and stated she was one of the Co-Founders of the Yakima Valley Farm Worker's Clinics (YVFWC) and credited with the development of YVFWC slogan. Peterson also stated she has a foundation in her name. Councilmember Carlson clarified that he meant a historical check, not a background check.

Mayor Raymond restated the motion. Roll was called: Councilmember Wickenhagen – yes; Councilmember Iverson – yes; Councilmember Marquis – yes; Councilmember Peterson – yes; Councilmember Bell – yes; Councilmember Costello – yes; Councilmember Carlson – yes. By voice vote, Resolution passes unanimously

N-6 Resolution to Negate – as of 2022 – the Automatic Roll-Forward of Financial Severance Coverage for the City Attorney as to a Without Cause Basis Termination of Employment that Might Occur during 2026.

Introduced by Mayor Raymond, and presented by Councilmember Carlson.

Councilmember Carlson stated that approval of this resolution would change the City Attorney Contract from a 6 months severance to a 3-month severance. Attorney Case clarified and said a yes vote on this resolution would negate severance for calendar year 2026 only, and only for a without cause termination.

Councilmember Iverson asked what is common practice in this situation for City Employees. Attorney Case stated that contractual severance in this nature only exists if there is a contract, which nearly all Selah employees do not have. Councilmember Iverson asked who wrote the contract. Attorney Case stated that he initially wrote it, but it was a collaborative effort between former City Administrator Wayman and the City Council. Councilmember Iverson asked why the contract was structure this way. Attorney Case stated that in order to get all the language requested by both Council and the former City Administrator, the contract is a result of negotiations at the time.

Councilmember Bell stated that his recollection is that some of the agreements were because of the sacrifices Mr. Case was making to fully represent the City.

Councilmember Carlson stated this would be his recommendation for any contract for any City employees. That support of this resolution was merely a business decision.

Councilmember Carlson moved, and Councilmember Iverson seconded, to approve the Resolution to Negate – as of 2022 – the Automatic Roll-Forward of Financial Severance Coverage for the City Attorney as to a Without Cause Basis Termination of Employment that Might Occur during 2026.

Roll was called: Councilmember Wickenhagen – no; Councilmember Iverson – yes; Councilmember Marquis – yes; Councilmember Peterson – no; Councilmember Bell – no; Councilmember Costello – no; Councilmember Carlson – yes. By voice vote, Resolution fails with 3 yes votes and 4 no votes.

N-7 Resolution Authorizing the Mayor to Sign a Construction Contract Change Order No. 1 and Change Order No. 2 between the City of Selah and Belsaas and Smith for the Wastewater Collection Systems Improvement Project.

Introduced by Mayor Raymond, and presented by Public Works Director, Rocky Wallace. After discussion,

Councilmember Peterson moved, and Councilmember Bell seconded, to approve the Resolution Authorizing the Mayor to Sign a Construction Contract Change Order No. 1 and Change Order No. 2 between the City of Selah and Belsaas and Smith for the Wastewater Collection Systems Improvement Project.

Roll was called: Councilmember Wickenhagen – yes; Councilmember Iverson – yes; Councilmember Marquis – yes; Councilmember Peterson – yes; Councilmember Bell – yes; Councilmember Costello – yes; Councilmember Carlson – yes. By voice vote, Resolution passes, unanimously.

O. Ordinances **None**

P. Public Appearances **None**

Q. Reports/Announcements

1. Departments

- Lieutenant Brumley gave report and discussed that the department was working on pricing out a purchase to replace expired bulletproof vests
 - Councilmember Peterson asked how many needed to be replaced. Lt Brumley stated 11 vests. Councilmember Peterson asked if, in the future, there will be a rotation on vest expiration dates to avoid a large purchase. Lt Brumley said, yes, there would be.
- Zack Schab gave report, formally introduced new staff members Kelsey Brontide and Ron Anderson, both answered questions from council.
 - Councilmember Peterson asked how the Comp Plan survey was going. Schab stated they were still receiving feedback.
 - Mayor Raymond asked how plans were going for the Afterschool Program. Schab said they were working on it, and talking with the High School for volunteers or interested students.

- Jeff Peters gave report and discussed the need for new planning commission members. Also gave information to Council regarding the new state requirements for “middle housing” regulations.
 - Mayor Raymond asked when he needed Planning Commission members. Peters said as soon as possible.
- Rocky Wallace gave report
 - Councilmember Carlson asked about the crack-sealing project. Said the crew from last year was awesome and wondered if they would bid again. Mr. Wallace said the City reached out to them, but they declined to bid.
 - Councilmember Wickenhagen asked about fuel costs and the budget. Mr. Wallace said he would be checking the budget and provide Council with an update.
- Dale Novobielski gave report and an update on Tax revenues.
 - Councilmember Peterson asked about gas prices, and if Mr. Novobielski had an overall estimate of current expenditures. Mr. Novobielski said all financial statements are available on the City website for review at any time, but that all costs are going up and department heads should be monitoring their budgets. But also, that he had no concerns from the first quarter, so far.

2. Councilmembers

- Councilmember Wickenhagen – Announced that Katrine Henkel was voted by the Yakima Valley Tourism board as the “Key Ambassador” for our region and read the press release from Yakima Valley Tourism.
- Councilmember Iverson – No report
- Councilmember Marquis – No report
- Councilmember Peterson – No report, requested for ARPA funds study session
- Councilmember Bell – Stated that he would be attending the AWC conference at the end of June and if there were any session the Council wanted him to attend, to be sure and let him know. He stated the schedule was available on the AWC website. Councilmember Bell also gave update on the Pool.
- Councilmember Costello – No report
- Councilmember Carlson – No report

3. City Attorney Report - No report

4. City Administrator Report - Gave report, included discussion of having a hearing examiner for the city again; and that Mr. Peters was looking into it. Mr. Henne gave update on the recent PD audit with WCIA, said the meeting went really good. Stated that WCIA said rates will be going up, and that he would let Council know if/when anything changes. Mr. Henne also discussed the upcoming meeting with YTC Base Commander. Also thanked council for accepting the late resolution for N-7.

5. Mayor Report - Gave report, thanked Rocky Wallace, public works, and police for all their hard work with all the construction projects going on around town.

6. Boards None

R. Executive Session None

S. Adjournment
Councilmember Peterson moved to adjourn the meeting. Councilmember Wickenhagen seconded. By show of hands vote was unanimous. Meeting was adjourned.

The meeting adjourned at 7:26pm.

Sherry Raymond, Mayor

Roger Bell, Councilmember

Russell Carlson, Councilmember

Jared Iverson, Councilmember

Kevin Wickenhagen, Councilmember

Clifford Peterson, Councilmember

Elizabeth Marquis, Councilmember

Michael Costello, Councilmember

ATTEST:

Dale E. Novobielski, Clerk/Treasurer



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 7/12/2022

Agenda Number: K-2

Action Item

Title: Approval of Claims and Payroll

From: Dale Novobielski, City Clerk/Treasurer

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: See claims and payroll registers

Funding Source: See claims and payroll registers

Background/Findings/Facts: N/A

Recommended Motion: I move to approve the Consent Agenda in the form presented (This item is part of the consent agenda).

Record of all prior actions taken by the City Council and/or City Board, City Committee, Planning Commission, or the Hearing Examiner (if not applicable, please state none).

Date: **Action Taken:** None



Selah City Council

Regular Meeting

AGENDA ITEM SUMMARY

Meeting Date: 7/12/2022

Agenda Number: N-1

Action Item

Title: Resolution Authorizing the Mayor to sign a Construction Contract between the City of Selah and Central Paving, LLC, of Ellensburg, WA for the 2022 Crack Seal Project.

From: Rocky D. Wallace, Public Works Director

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: \$28,448.00

Funding Source: 111

Background/Findings/Facts: The City wishes to crack seal the five lanes on South 1st Street from Valleyview Avenue to West Naches Avenue. The bid opening for the above referenced project was held at Selah Public Works office at approximately 11:00 a.m., on Thursday, June 9, 2022. A total of two (2) bids were received with the low bid of \$28,448.00, by Central Paving, LLC, of Ellensburg, WA. Such amount is approximately five (5) percent below the Engineer's Estimate of \$29,925.00. The City budgeted \$25,000.00 for crack sealing and engineering services for 2022. A budget adjustment of \$8,448.00 will be required to cover engineering services and crack sealing. The City's engineers have reviewed and checked the bid proposals of all bidders and recommend the City award a construction contract to Central Paving, LLC.

Recommended Motion: I move to approve the Resolution in the form presented.

Record of all prior actions taken by the City Council and/or City Board, City Committee, Planning Commission, or the Hearing Examiner (if not applicable, please state none).

Date: **Action Taken:**

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR SIGN A CONSTRUCTION CONTRACT
BETWEEN THE CITY OF SELAH AND CENTRAL PAVING, LLC, FOR THE 2022 CRACK
SEAL PROJECT

WHEREAS, the City of Selah wishes to crack seal asphalt on South 1st Street; and

WHEREAS, after seeking bids the City wishes to award the construction contract to the low bidder, Central Paving, LLC, of Ellensburg, Washington;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor be authorized to sign a Construction Contract between the City of Selah and Central Paving, LLC, in the amount of \$28,448.00 for the 2022 Crack Seal Project.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 12th day of July, 2022.

ATTEST:

Sherry Raymond, Mayor

Dale Novobielski, Clerk Treasurer

APPROVED AS TO FORM:

Rob Case, City Attorney



June 9, 2022

City of Selah
115 W. Naches Avenue
Selah, WA 98942

Attn: Mayor Sherry Raymond

Re: City of Selah
2022 Crack Sealing
HLA Project No.: 22006G
Recommendation of Award

Dear Mayor Raymond:

The bid opening for the above referenced project was held at Selah City Hall at 11:00 a.m. on Thursday, June 9, 2022. A total of two (2) bids were received with the low bid of \$28,448.00, being offered by Central Paving, LLC, of Ellensburg, WA. This low bid is approximately five (5) percent below the Engineer's Estimate of \$29,925.00.

We have reviewed and checked the bid proposals of all bidders and recommend the City of Selah award a construction contract to Central Paving, LLC, in the amount of \$28,448.00. Please send us a copy of the City of Selah Council minutes authorizing award of this project.

Enclosed please find the project Bid Summary for your review. Please advise if we may answer any questions or provide additional information.

Very truly yours,

A handwritten signature in blue ink, reading "Terry D. Alapeteri".

Terry D. Alapeteri, PE

TDA/jld

Enclosures

Copy: Joe Henne, City of Selah
Rocky Wallace, City of Selah
Dale Novobielski, City of Selah
Angela Ringer, HLA

From: [Jennifer Davis](#)
To: [Henne, Joe](#); [Wallace, Rocky](#)
Cc: [Angela Ringer](#); [Terry Alapeteri](#); [Charskie Kinloch](#)
Subject: 22006G - 2022 Crack Sealing - Recommendation of Award and Bid Summary
Date: Thursday, June 9, 2022 1:40:46 PM
Attachments: [2022-06-09 - 22006G - Recommendation of Award.pdf](#)
[2022-06-09 - 22006G - Signed Bid Summary.pdf](#)

Good afternoon Joe and Rocky,

Please see the attached Bid Summary and Recommendation of Award for the above referenced project. If Award is authorized by the City of Selah, please send a copy of the authorization to our office so that we may proceed with contract execution.

Please contact us if you have any questions.

Thank you,





Jennifer Davis, Contract Administrator

HLA Engineering and Land Surveying, Inc.

2803 River Road Yakima, WA 98902

Office: 509-966-7000

jdavis@hlacivil.com | www.hlacivil.com

BID SUMMARY						BIDDER NO. 1		BIDDER NO. 2		BIDDER NO. 3	
OWNER: City of Selah PROJECT: 2022 Crack Sealing HLA PROJECT NO.: 22006G BID OPENING DATE: June 9, 2022						Central Paving, LLC 1410 W. Dolarway Rd. Ellensburg, WA 98926		Construction Ahead, Inc. dba Pavement Surface Control P.O. Box 7204 Kennewick, WA 97204			
ITEM NO.	DESCRIPTION	QTY.	UNIT	ENGINEER'S ESTIMATE		UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
				UNIT PRICE	AMOUNT						
1	Mobilization	---	LS	---	\$ 2,500.00	---	\$ 1,388.00	---	\$ 2,136.00		
2	Project Temporary Traffic Control	---	LS	---	\$ 5,000.00	---	\$ 6,000.00	---	\$ 12,650.00		
3	Crack Sealing	19,500	LF	\$ 1.15	\$ 22,425.00	\$ 1.08	\$ 21,060.00	\$ 0.85	\$ 16,575.00		
BID TOTAL					\$ 29,925.00		\$ 28,448.00		\$ 31,361.00		
ENGINEER'S REPORT						BIDDER		BID TOTAL			
Competitive bids were opened June 9, 2022. All bids have been reviewed by this office. We recommend the contract be awarded to: Central Paving, LLC.											
 Project Engineer											
Date <u>6.09.22</u>											
											
*Bid results can be found at: hlacivil.com						*Highlighted amounts have been corrected.					

CONTRACT

THIS AGREEMENT, made and entered into in triplicate, this _____ day of _____, 2022, by and between the City of Selah, hereinafter called the OWNER, and _____ Central Paving, LLC, hereinafter called the CONTRACTOR,

WITNESSETH:

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

- I. The CONTRACTOR shall do all work and furnish all tools, materials, and equipment for the bid amount of \$ 28,448.00, for 2022 CRACK SEALING, HLA Project No. 22006G, in accordance with and as described in the attached Plans and Specifications and the Standard Specifications for Road, Bridge, and Municipal Construction, which are by this reference incorporated herein and made a part hereof, and shall perform any alterations in or additions to the work provided under this Contract and every part thereof.

Work shall start within ten (10) calendar days after Notice to Proceed and shall be completed within ten (10) working days of the date of such Notice to Proceed (see SPECIAL PROVISIONS - Section 1-08.5).

If said work is not completed within the time specified, the CONTRACTOR agrees to pay to the OWNER for each and every working day said work remains uncompleted after expiration of the specified time, liquidated damages as determined in Section 1-08.9.

The CONTRACTOR shall provide and bear the expense of all equipment, work, and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in this Contract and every part thereof, except such as are mentioned in the Specifications to be furnished by the OWNER.

- II. The OWNER hereby promises and agrees with the CONTRACTOR to employ, and does employ the CONTRACTOR to provide the materials and to do and cause to be done the above described work and to complete and finish the same according to the attached Plans and Specifications and the terms and conditions herein contained; and hereby contracts to pay for the same according to the attached Specifications and the schedule of unit or itemized prices hereto attached, at the time and in the manner and upon the conditions provided for in this Contract.
- III. The CONTRACTOR for himself, and for his/her heirs, executors, administrators, successors, and assigns does hereby agree to the full performance of all the covenants herein upon the part of the CONTRACTOR.
- IV. It is further provided that no liability shall attach to the OWNER by reason of entering into this Contract, except as expressly provided herein.
- V. CONTRACTOR is an independent contractor and not an employee of the OWNER. The OWNER has designated the Contract performance and the CONTRACTOR shall be responsible for the details of that work. The parties recognize the CONTRACTOR has unique skills not otherwise available to the OWNER to accomplish the purpose of the Contract. The CONTRACTOR shall supply all equipment and supplies necessary to accomplish the Contract. The parties recognize that the purpose of the Contract is not within the regular course of business of the OWNER. The parties state that the right of control over the activities necessary to perform the Contract are with the CONTRACTOR.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first herein above written.

OWNER:

City of Selah, Washington

(SEAL)

By: _____

ATTEST:

Name: Sherry Raymond

Title: Mayor

Name: Dale Novobielski

Title: Clerk-Treasurer

CONTRACTOR:

Central Paving, LLC
(CONTRACTOR NAME)

By: _____
AUTHORIZED OFFICIAL'S SIGNATURE

(SEAL)

Name: _____
(Please Print or Type)

ATTEST:

Address: _____

Phone: _____

Fax: _____

Name: _____
(Please Print or Type)



Selah City Council

Regular Meeting

AGENDA ITEM SUMMARY

Meeting Date: 7/12/2022

Agenda Number: N-2

Action Item

Title: Resolution Authorizing the Mayor to Sign, on Behalf of the City, Change Order No.3 with Belsaas & Smith Construction, Inc., for Work on Certain Components of the Selah Wastewater Collections Improvements Project.

From: Rocky D. Wallace, Public Works Director

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: None

Funding Source: 415

Background/Findings/Facts: This pertains to the City's ongoing Wastewater Collections Improvements Project. Change Order No. 3 is due to Tree Top directing the contractor to work within certain weeks in the City's utility easement in S. Railroad Avenue. The City will be invoiced for the work by the contractor then seek reimbursement from Tree Top. The City's Public Works Department is seeking approval from the City Council for the Mayor to sign such proposal on behalf of the City, so that this work can proceed when appropriate.

Recommended Motion: I move to approve the Resolution in the form presented.

Record of all prior actions taken by the City Council and/or City Board, City Committee, Planning Commission, or the Hearing Examiner (if not applicable, please state none).

Date:	Action Taken:
7/23/2019	Resolution authorizing the Mayor to sign Task Order 2019-01 between the City of Selah and HLA Engineering and Land Surveying, Inc. to provide Engineering and Land Surveying Services for the Wastewater Collection System Improvements
12/8/2020	Resolution No.2827 Authorizing the mayor to sign an application for Federal Assistance from the U.S. Department of Agriculture, Rural Development, Rural Utilities Service Requesting \$2,036,290.00 in funding to be used to construct the City of Selah's Wastewater Collection System Improvements Project.
5/26/2021	USDA Rural Development Letter- Approval to proceed to Bid

11/15/2021	Advertisement for Bids
11/22/2021	Advertisement for Bids
12/7/2021	Bid Opening
12/14/2021	A Resolution # 2885 authorizing the Mayor to sign a Construction Contract between the City of Selah and Belsaas & Smith Construction, Inc, of Ellensburg, WA for the Wastewater Collection System Improvements Project Bid Award
1/11/2022	Resolution No. 2890 authorizing the mayor sign, on behalf of the City, a two-page written contract with Baer Testing and Engineering, Inc., for work on certain components of the Selah Wastewater Collection Improvements Project
6/14/2022	Resolution No. 2927 authorizing the Mayor to sign construction contract Change Order No. 1 and 2 between the City of Selah and Belsaas & Smith for the Wastewater Collection System Improvements Project

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR TO SIGN CONSTRUCTION CONTRACT
CHANGE ORDER NO. 3 BETWEEN THE CITY OF SELAH AND BELSAAS & SMITH FOR
THE WASTEWATER COLLECTION SYSTEMS IMPROVEMENTS PROJECT

WHEREAS, the City of Selah signed a construction contract to make certain improvements to the sanitary sewer system, and

WHEREAS; the City wishes to change that contract due to Tree Top directing the contractor to change their work schedule in the City's utility easement in South Railroad Avenue;

WHEREAS; the City will be invoiced for the work by Belsaas and Smith and then seek reimbursement from Tree Top;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor is authorized to sign a construction contract Change Order No. 3 with Belsaas & Smith for the Wastewater Collection System Improvements Project.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 12th day of July, 2022.

Sherry Raymond, Mayor

ATTEST:

Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Rob Case, City Attorney

CHANGE ORDER NO. 3

OWNER: City of Selah
 PROJECT NAME: Wastewater Collection System Improvements
 HLA PROJECT NO.: 19027
 CONTRACTOR: Belsaas and Smith Construction

THE FOLLOWING CHANGES ARE HEREBY MADE TO THE CONTRACT DOCUMENT:

Original Contract Price (Including State Sales Tax):	\$1,880,592.68
Current Contract Price Adjusted by Previous Change Order(s) (Including State Sales Tax):	\$2,116,737.39
Change in Contract Price Due to This Change Order (Including State Sales):	\$0.00
Adjusted Contract Price Due to This Change Order (Including State Sales Tax):	\$2,116,737.39

Original Contract Completion Date:	110 Working Days
Current Contract Completion Date Adjusted by Non-Working Days and/or Previous Change Order:	128 Working Days
Change in Contract Completion Date Due to This Change Order:	Zero (0) Additional Working Days
Revised Contract Completion Date:	128 Working Days

CONTRACTOR: _____
 Belsaas and Smith Construction

Date: _____

ENGINEER: _____
 HLA Engineering and Land Surveying, Inc.

Date: _____

OWNER: _____
 City of Selah

Date: _____

OTHER: _____
 Tree Top

Date: _____

City of Selah
Wastewater Collection System Improvements
HLA Project No.: 19027

CHANGE ORDER NO. 3

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT
Schedule C - Tree Top Accommodation Work (Reimbursed by Tree Top)					
51	Mobilization	LS	0	\$13,000.00	\$0.00
52	Subcontractor Mobilization	LS	0	\$2,000.00	\$0.00
53	Contractor Overtime, if Needed	HR	0	\$380.00	\$0.00
54	Contractor Double Time, if Needed	HR	0	\$760.00	\$0.00
CHANGE ORDER NO. 3 SUBTOTAL					\$0.00
8.3% STATE SALES TAX					\$0.00
CHANGE ORDER NO. 3 TOTAL					\$0.00

REASON:

Construction of manhole 1 to manhole 7 and the associated pipe is within Tree Top's right of way (ROW) and within the City's easement. Tree Top has directed the City and the Contractor that the construction within their ROW must be completed in a specific order and timeframe, thus revising the Contractor's construction means and methods of installation. Since Tree Top has directed this work, any costs associated with this change (additional mobilization costs and overtime) is at the expense of Tree Top. The Contractor will bill the City for these expenses through the project and the City will seek reimbursement from Tree Top.

ACCOMPLISHING WORK:

Street, sewer, and storm improvements shall be completed in accordance with WSDOT Standard Specification and Special Provisions applicable sections.

Overtime is defined as time outside the normal 4/10 work schedule as defined in Spec. Section 1-08.0(2) Hours of Work. Work performed in excess of ten (10) hours of straight time per day when four ten (10) hour shifts are established or outside the normal shift (5 am to 6 pm), and all work on Saturdays, except for make-up days shall be paid at time and one-half (1 1/2) the straight time rate.

Double time is defined as work performed on Sundays and holidays and work in excess of twelve (12) hours per day shall be paid at double (2x) the straight time rate of pay.

Hourly overtime rates were calculated for labor and tools necessary to complete the proposed improvements. Labor included (1) truck driver, (2) excavator operators, (1) loader operator, and (2) pipe layers. As the proposed work is contract work but being installed in overtime hours the rates above only include the 0.5x and 1x rate for labor.

CHANGE ORDER NO.: 3

Owner: City of Selah
Engineer: HLA Engineering and Land Surveying, Inc.
Contractor: Belsaas and Smith Construction
Project: Wastewater Collection System Improvements
Contract Name:

Owner's Project No.: N/A
Engineer's Project No.: 19027
Contractor's Project No.:

Date Issued: 12/15/21

Effective Date of Change
Order:

The Contract is modified as follows upon execution of this Change Order:

Description:

Construction of manhole 1 to manhole 7 and the associated pipe is within Tree Top's right of way (ROW) and within the City's easement. Tree Top has directed the City and the Contractor that the construction within their ROW must be completed in a specific order and timeframe, thus revising the Contractor's construction means and methods of installation. Since Tree Top has directed this work, any costs associated with this change (additional mobilization costs and overtime) is at the expense of Tree Top. The Contractor will bill the City for these expenses through the project and the City will seek reimbursement from Tree Top.

Attachments:

Change Order No. 3 Breakdown

Change in Contract Price	Change in Contract Times
Original Contract Price: \$ 1,880,592.68	Original Contract Times: Substantial Completion: 110 working days Ready for final payment: 110 working days
Change from previously approved Change Orders No. 1 & 2: \$ 236,144.71	Change from previously approved Change Orders No. 1 & 2: Substantial Completion: 18 working days Ready for final payment: 38 working days
Contract Price prior to this Change Order: \$ 2,116,737.39	Contract Times prior to this Change Order: Substantial Completion: 128 working days Ready for final payment: 148 working days
Contract Price increase from this Change Order: \$ 0	Working day increase due to this Change Order: Substantial Completion: 0 working days Ready for final payment: 0 working days
Contract Price incorporating this Change Order: \$ 2,116,737.39	Contract Times with all approved Change Orders: Substantial Completion: 128 working days Ready for final payment: 148 workings days

Recommended by Engineer (if required)

Authorized by Contractor

By: _____

Title: _____

Date: _____

	Authorized by Owner	Approved by Funding Agency (if applicable)
By:		
Title:		
Date:		



Selah City Council

Regular Meeting

AGENDA ITEM SUMMARY

Meeting Date: 7/12/2022

Agenda Number: N-3

Action Item

Title: Resolution Authorizing the Mayor to Sign, on Behalf of the City, an Amendment to the Owner-Engineer Agreement (Amendment No. 01) with HLA Engineering and Land Surveying, Inc., for Work on Certain Components of the Selah Wastewater Collections Improvements Project.

From: Rocky D. Wallace, Public Works Director

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: \$41,814.00

Funding Source: 415

Background/Findings/Facts: This pertains to the City's ongoing Wastewater Collections Improvements Project. During the June 14, 2022 regular Council meeting, Council approved Change Orders No. 1 and 2, adding an additional 18 days to the contract. This Amendment No. 1 between the City and the Engineer is for additional engineering design and construction inspection services due to the additional days. The total for Amendment No. 1 is of \$41,814.00. The City's Public Works Department is seeking approval from the City Council for the Mayor to sign such proposal on behalf of the City, so that this work can proceed when appropriate.

Recommended Motion: I move to approve the Resolution in the form presented.

Record of all prior actions taken by the City Council and/or City Board, City Committee, Planning Commission, or the Hearing Examiner (if not applicable, please state none).

Date:

Action Taken:

7/23/2019	Resolution authorizing the Mayor to sign Task Order 2019-01 between the City of Selah and HLA Engineering and Land Surveying, Inc. to provide Engineering and Land Surveying Services for the Wastewater Collection System Improvements
12/8/2020	Resolution No.2827 Authorizing the Mayor to sign an application for Federal Assistance from the U.S. Department of Agriculture, Rural Development, Rural

Utilities Service Requesting \$2,036,290.00 in funding to be used to construct the City of Selah's Wastewater Collection System Improvements Project.

5/26/2021	USDA Rural Development Letter- Approval to proceed to Bid
11/15/2021	Advertisement for Bids
11/22/2021	Advertisement for Bids
12/7/2021	Bid Opening
12/14/2021	A Resolution # 2885 authorizing the Mayor to sign a Construction Contract between the City of Selah and Belsaas & Smith Construction, Inc, of Ellensburg, WA for the Wastewater Collections System Improvements Project Bid Award
1/11/2022	Resolution No. 2890 authorizing the Mayor sign, on behalf of the City, a two-page written contract with Baer Testing and Engineering, Inc., for work on certain components of the Selah Wastewater Collections Improvements Project
6/14/2022	Resolution No. 2927 authorizing the Mayor to sign construction contract Change Order No. 1 and Change Order No. 2 between the City of Selah and Belsaas & Smith for the Wastewater Collections Improvements Project

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT TO OWNER-ENGINEER AGREEMENT AMENDMENT NO. 01 WITH HLA ENGINEERING AND LAND SURVEYING, INC., FOR THE WASTEWATER COLLECTION SYSTEMS IMPROVEMENTS PROJECT

WHEREAS, the City of Selah signed an engineering design and construction contract to make certain improvements to the sanitary sewer system, and

WHEREAS; the City wishes to change that contract due to additional design engineering and construction observation being granted to the original contract;

WHEREAS; these changes will result in an additional \$41,814.00 to the engineer's contract;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor is authorized to sign an Amendment to Owner-Engineer Agreement Amendment No. 01 with HLA Engineering and Land Surveying Inc., for the Wastewater Collection System Improvements Project.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 12th day of July, 2022.

Sherry Raymond, Mayor

ATTEST:

Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Rob Case, City Attorney



*** TRANSMITTAL ***

Phone: (509) 966-7000
2803 River Road, Yakima, WA 98902

Received

JUL 05 2022

By *[Signature]*
City of Selah
Planning Dept.

Date: June 30, 2022

Project No.: 19027C

To: City of Selah
222 S. Rushmore Road
Selah, WA 98942

Attention: Rocky Wallace
Public Works Director

From: Stephen S. Hazzard, PE

Re: Wastewater Collection System Improvements
EJCDC Exhibit K – Amendment to Owner-Engineer Agreement – Amendment No. 1

We are sending you the attached following items:

Two (2) Signed Original EJCDC Exhibit K – Amendment to Owner-Engineer Agreement – Amendment No. 1

Comment:

Rocky:

Attached for your review and consideration is the EJCDC Exhibit K – Amendment to Owner-Engineer Agreement – Amendment No. 1 for the Wastewater Collection System Improvements project.

Please execute both Agreements and return one copy to our office.

We very much appreciate the opportunity to work with you and serve the City of Selah. If you have any questions or need additional information, please contact me.

Copy to: _____ Signed: *[Signature: Stephen S. Hazzard]*

This is **EXHIBIT K**, consisting of **2** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **June 28, 2022**.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 01

The Effective Date of this Amendment is: June 28, 2022.

Additional working days added to the Contractor's contract due to change orders No. 1 and 2.

Effective Date of Owner-Engineer Agreement: July 12, 2022

Owner: City of Selah

Engineer: HLA Engineering and Land Surveying, Inc.

Project: Wastewater Collection System Improvements

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

- ☐ Additional Services to be performed by Engineer
- ☐ Modifications to services of Engineer
- ☐ Modifications to responsibilities of Owner
- ☒ Modifications of payment to Engineer
- ☒ Modifications to time(s) for rendering services
- ☐ Modifications to other terms and conditions of the Agreement

Description of Modifications:

Modifications of payment to Engineer is to cover costs associated with adding eighteen (18) working days to the Contractor's contract due to change orders No. 1 and 2.

The following is a summary of amended fees per category:

	Original Agreement	Amendment No. 1	Adjusted Agreement
Basic Services	\$126,296.00	\$19,026.00	\$145,322.00
Resident Project Observation	\$139,304.00	\$22,788.00	\$162,092.00
Total	\$265,600.00	\$41,814.00	\$307,414.00

Agreement Summary:

Original agreement amount:	\$ 265,600.00
Net change for prior amendments:	\$ 0.00
This amendment amount:	\$ 41,814.00
Adjusted Agreement amount:	\$ 307,414.00

Change in time for services (days or date, as applicable): Eighteen (18) additional working days

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

ENGINEER:

By: _____
Print
name: Sherry Raymond

Title: Mayor

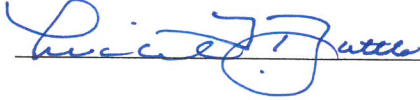
Date Signed: _____

AGENCY:

By: _____
Print
name: _____

Title: _____

Date Signed: _____

By: 
Print
name: Michael T. Battle, PE

Title: President

Date Signed: 6/28/2022



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 7/12/2022

Agenda Number: N-4

Action Item

Title: Resolution Authorizing the Mayor to Sign a Twenty-Eight Page Business Licensing Services Agreement with the Department of Revenue.

From: Rob Case, City Attorney

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: None

Funding Source: N/A

Background/Findings/Facts: State law was changed in 2017 such that RCW Chapter 35.90 now requires all cities to partner with the Department of Revenue with regard to the issuance of business licenses. To effectuate such partnership, DOR is asking the City to enter into a written contract. A copy of the proposed contract – labeled Business Licensing Services Agreement, measuring 28 total pages including its Attachments – is appended hereto. Notably, the regular services that DOR will provide to the City will be provided at no charge to the City. If the City requests ad hoc reports and/or changes outside of the standard program, the City will be responsible for reimbursing any expenses related thereto.

Recommended Motion: I move to approve the Resolution in the form presented.

Record of all prior actions taken by the City Council and/or City Board, City Committee, Planning Commission, or the Hearing Examiner (if not applicable, please state none).

Date: **Action Taken:**

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR SIGN A TWENTY-EIGHT PAGE
BUSINESS LICENSING SERVICES AGREEMENT WITH THE DEPARTMENT
OF REVENUE

WHEREAS, state law – specifically RCW Chapter 35.90 – requires all cities to partner with the Department of Revenue with regard to the issuance of business licenses; and

WHEREAS, to effectuate such partnership, DOR is asking the City to enter into a written contract, labeled Business Licensing Services Agreement and measuring 28 total pages including its Attachments; and

WHEREAS, the terms of the proposed contract are acceptable to City staff;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor be and is authorized to sign a twenty-eight page Business Licensing Services Agreement with the Department of Revenue.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 12th day of July, 2022.

ATTEST:

Sherry Raymond, Mayor

Dale Novobielski, Clerk Treasurer

APPROVED AS TO FORM:

Rob Case, City Attorney

	BUSINESS LICENSING SERVICES AGREEMENT	DOR Contract Number: K2069 Contractor Contract Number:
---	--	---

THIS CONTRACT is made between the Washington State Department of Revenue (“DOR”) and City of Selah (“Contractor”) the party whose name appears below, and is effective as of the date set forth below.

CONTRACTOR NAME City of Selah		CONTRACTOR DOING BUSINESS AS (DBA) City of Selah		
CONTRACTOR ADDRESS Street 115 W Naches Ave	City Selah	State WA	Zip Code 98942	
CONTRACTOR CONTACT/TITLE Doraine Bigby/Business Registration Cor.	CONTRACTOR TELEPHONE (509)698-7326	CONTRACTOR EMAIL ADDRESS Doraine.Bigby@selahwa.gov		

DOR PROGRAM Business Licensing Services	DOR DIVISION/SECTION Taxpayer Services/Partnership Services
DOR CONTACT NAME AND TITLE Katie Early, BLS Partnership Services Manager	DOR CONTACT ADDRESS Department of Revenue Attn: Business Licensing Service PO Box 47478 Olympia, WA 98504-7478
DOR CONTACT TELEPHONE (360) 705-6777	DOR CONTACT EMAIL ADDRESS DORBLSPARTNER@DOR.WA.GOV

CONTRACT START DATE Date of Last Signature	CONTRACT END DATE When Terminated in Writing By Both Parties	
PURPOSE OF CONTRACT: This Contract includes all terms and conditions for DOR and Contractor to govern Contractor’s partnering with DOR to have business licenses issued, and renewed, if the city requires renewal, through the business licensing service in accordance with Chapter <u>19.02</u> RCW.		

The parties signing below warrant that they have read and understand this Contract, and have authority to execute this Contract. This Contract will be binding on DOR only upon signature by DOR.

CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED
DOR SIGNATURE	PRINTED NAME AND TITLE Sandi Fairchild, Chief Financial Officer	DATE SIGNED

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Attachments

Attachment 1: RCW 35.90.020

Attachment 2: Confidential Information Security Requirements

Contract #K2069 Business Licensing Services

Purpose

The purpose of this Contract is to establish the terms under which the Washington State Department of Revenue' (hereinafter referred to as "DOR") Business Licensing Service (hereinafter referred to as "BLS") program will act as the City of Selah's (hereinafter referred to as "Contractor") Agent for the purpose of collecting, processing, and disbursing information, licenses, and fees related to Contractor's ability to collect licensing fees, collection and distribution of information based on Contractor's regulatory authority as a City or Town within the state of Washington.

Contractor shall retain its regulatory authority over its business, licensing and other regulatory activities, except as expressly delegated to DOR in accordance with this Contract and RCW 35.09.020. A copy of Chapter 35.090.020 RCW is attached hereto as Attachment 1.

NOW THEREFORE, DOR and Contractor enter into this Contract, the terms and conditions of which will govern Contractor's partnering with DOR to have business licenses issued, and renewed, if the city requires renewal, through the Business Licensing Service in accordance with Chapter [19.02](#) RCW.

IN CONSIDERATION of the mutual promises as set forth in this Contract, the parties agree as follows:

1. DEFINITIONS

"Agent" means an entity used for the purpose of collecting, processing, and disbursing information, licenses, and fees.

"Authorized Representative" means a person to whom signature authority has been delegated in writing acting within the limits of his/her authority.

The "State Business Licensing Service" or "BLS program" means the program, administered by DOR. Chapter 35.90.20 RCW requires any Washington state municipality not under contract with the FileLocal service for local business licensing by June 30, 2020, will contract with the BLS program by December 31, 2022 if it continues to issue general business licenses. . DOR will facilitate for contractors the issuance and renewal of municipal government general business licenses, collection and distribution of licensing fees, and collection and distribution of business information.

“Breach” means the unauthorized acquisition, access, use, or disclosure of Confidential Information that compromises the security, confidentiality, or integrity of the Confidential Information.

“Confidential Information” means information that may be exempt from disclosure to the public or other unauthorized persons under chapter 42.56 RCW or other state or federal statutes or regulations. Confidential Information includes, but is not limited to, any information identifiable to an individual that relates to a natural person, finances, education, business, use or receipt of governmental services, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and any other identifying numbers, law enforcement records, DOR’s source code or object code, or DOR or State security information.

“Contract” means this Contract document and all schedules, exhibits, attachments, incorporated documents and amendments.

“Contractor” means the City of Selah, its employees and agents. Contractor includes any firm, provider, organization, individual or other entity performing services under this Contract. It also includes any Subcontractor retained by Contractor as permitted under the terms of this Contract.

“Data” means information produced, furnished, acquired, or used by Contractor in meeting requirements under this Contract.

“Effective Date” means the first date this Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Contract.

“DOR Contract Manager” means the individual identified on the cover page of this Contract who will provide oversight of the Contractor’s activities conducted under this Contract.

“Department of Revenue” or **“DOR”** or **“Revenue”** means the Washington State Department of Revenue, any division, section, office, unit or other entity of DOR, or any of the officers or other officials lawfully representing DOR.

“Overpayment” means any payment or benefit to the Contractor in excess of that to which the Contractor is entitled by law, rule, or this Contract, including amounts in dispute.

“RCW” means the Revised Code of Washington. All references in this Contract to RCW chapters or sections include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at: <http://apps.leg.wa.gov/rcw/>.

“Subcontractor” means a person or entity that is not in the employment of the Contractor, who is performing all or part of the business activities under this Contract under a separate contract with Contractor. The term “Subcontractor” means subcontractor(s) of any tier.

“WAC” means the Washington Administrative Code. All references to WAC chapters or sections will include any successor, amended, or replacement regulation. Pertinent WACs may be accessed at: <http://app.leg.wa.gov/wac/>.

2. SPECIAL TERMS AND CONDITIONS

2.1 PERFORMANCE EXPECTATIONS

- 2.1.1 Contractor will, within the time period requested by DOR, provide DOR with all Business Requirements and licensing information required to implement Contractor’s participation in the BLS program.
- 2.1.2 DOR will request Contractor’s Business Requirements directly by communicating with the Contractor’s Contract Manager.
- 2.1.3 DOR will request Contractor’s licensing information through the use of the License file format found on the DOR website at <https://dor.wa.gov/doing-business/business-business-licensing-service-and-local-licensing> page. This request will be sent directly to Contractor’s Contract Manager, or their designee.
- 2.1.4 All non-public, confidential business and/or confidential taxpayer information and data transferred between the parties is required to be encrypted by password protection or a secure file transfer process requiring a user ID and hardened passwords shall not be shared in the same message as any file containing non-public or confidential data.
- 2.1.5 Contractor agrees, completion and remittance to DOR of all of the following documents are requirements for Contractor’s participation in the BLS program:
 - DOR’s Business License Application and/or City Addendum;
 - The “Business License” document for proof of licensure under Contractor’s licensing or regulatory program; and
 - The Unified Business Identifier (UBI) number to identify licensees and license accounts in all communications with Revenue.
- 2.1.6 Contractor will obtain and maintain, at no cost to DOR, all necessary equipment and online services required to support Contractor’s access into and use of the BLS Database.
- 2.1.7 End-to-end testing will take place until such time as DOR is satisfied with the receipt and delivery of information. End to end testing includes testing all newly configured Contractor business requirements into DOR’s ATLAS system.
- 2.1.8 Contractor is required to have their licensing and information technology staff available during the first six (6) months of testing to respond to DOR. Contractor’s staff assigned to assist DOR must be knowledgeable of Contractor’s operations

and/or technology and be able to assist DOR staff with process improvements and/or troubleshooting. All Contractor's technology staff will be required to be subject matter experts in Contractor's technology. Additionally, Contractor's staff shall have the ability to make decisions on technical determinations as well as be available via email, telephone, and will take part in business meetings, when required, with DOR.

- 2.1.9 Contractor agrees to have staff available for training sessions, set to occur approximately six months prior to Contractor's assigned go-live date.
- 2.1.10 In accordance with RCW 35.90.070, Contractor agrees any general business license change enacted by Contractor, whose general business license is issued BLS, takes effect no sooner than seventy-five (75) days after DOR receives notice of the change, if the change affects in any way, who must obtain a license, who is exempt from obtaining a license, or the amount or method of determining any fee for the issuance or renewal of a license
- 2.1.11 Contractor will provide DOR with all statistical data associated with this Contract. The statistical data will include, but not be limited to, the following data elements:
 - Full-Time Equivalent (FTE) savings
 - Change in number of Contractor issued licensees
 - Any changes in Contractor's revenue flow
- 2.1.12 Expected performance under this Contract includes, but is not limited to, the following:
 - i. Knowledge of applicable state and federal laws and regulations pertaining to subject of the Contract;
 - ii. Collaboration with DOR staff in Contractor's conduct of the services;
 - iii. Conformance with DOR directions regarding the delivery of the services;
 - iv. Protection of all Confidential Information and Data; and
 - v. Timely, accurate and informed communications between the parties.

2.2 TERM

- 2.2.1 The initial term of the Contract will commence on the date of last signature, and continue unless terminated as provided herein.

2.3 COMPENSATION

DOR's services, as identified in this Contract, are provided at no charge to Contractor, with the following exceptions:

- 2.3.1 Contractor shall reimburse DOR the actual costs of developing and producing any and all ad hoc informational reports. Ad hoc reports will be created only if requested by the Contractor and agreed-upon by DOR.
- 2.3.2 Contractor is required to reimburse DOR for all expenses relating to the implementation of any changes, outside of the standard BLS program, if requested by the Contractor and agreed-upon by Revenue. Any said changes to the BLS program shall be in writing, amended by mutual written agreement of the Parties. Such amendments will not be binding unless they are in writing and signed by personnel authorized to bind each party as outlined in section 4.3 of this Contract.
- 2.3.3 DOR will not charge any fees associated with a standard, initial BLS project coordination and implementation. Any and all costs incurred by DOR or Contractor, including any and all travel related expenses, shall be absorbed by the respective party.
- 2.3.4 If DOR and/or Contractor agree to pay any travel-related expenses through an Amendment of this Contract, any and all day-to-day expenses related to performance under the Contract, including but not limited to travel, lodging, meals, and incidentals must be authorized in writing, in advance, by the DOR and reimbursement will be at rates not to exceed the then-current rules, regulations, and guidelines for Washington state employees published by the state Office of Financial Management in the state Administrative and Accounting Manual (<http://www.ofm.wa.gov/policy/10.htm>); reimbursement will not exceed expenses actually incurred.

To receive reimbursement, Contractor will be required to provide a detailed breakdown of authorized expenses and receipts for any and all expenses.

2.4 CONTRACTOR AND DOR CONTRACT MANAGERS

- 2.4.1 Contractor's Contract Manager will have prime responsibility and final authority for the services provided under this Contract and be the principal point of contact for DOR's Contract Manager for all business matters, performance matters, and administrative activities.
- 2.4.2 DOR's Contract Manager is responsible for monitoring the Contractor's performance and will be the contact person for all communications regarding contract performance and deliverables. The DOR Contract Manager has the authority to accept or reject the services provided and must approve the Contractor's invoices prior to payment.

- 2.4.3 The contact information provided below may be changed by written notice of the change (email acceptable) to the other party.

Contractor		Department of Revenue	
Contract Manager Information		Contract Manager Information	
Name:	Doraine Bigby	Name:	Katie Early
Title:	Business Registration Coordinator	Title:	BLS Partnership Services Manager
Phone:	(509)698-7326	Phone:	(360) 705-6607
Email:	Doraine.Bigby@selahwa.gov	Email:	KatieE@DOR.WA.GOV

2.5 LEGAL NOTICES

Any notice, demand or other communication required or permitted to be given under this Contract or applicable law is effective only if it is in writing and signed by the applicable party, properly addressed, and delivered in person, via email, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid certified mail, return receipt requested, to the parties at the addresses provided in this section.

- 2.5.1 In the case of notice to the Contractor:

City of Selah
Attn: Doraine Bigby
115 W Naches Ave
Selah, WA 98942

- 2.5.2 In the case of notice to DOR:

Attention: Procurement & Contracts Manager
Department of Revenue
Business & Financial Services
Post Office Box 47462
Olympia, WA 98504-7462

- 2.5.3 Notices are effective upon receipt or four (4) Business Days after mailing, whichever is earlier.
- 2.5.4 The notice address and information provided above may be changed by written notice of the change given as provided above.

2.6 INCORPORATION OF DOCUMENTS AND ORDER OF PRECEDENCE

Each of the documents listed below is by this reference incorporated into this Contract. In the event of an inconsistency, the inconsistency will be resolved in the following order of precedence:

- 2.6.1 Applicable Federal and State of Washington statutes and regulations, including RCW 30.90.020 attached hereto as Attachment 1;
- 2.6.2 Data Share Agreement **K2069**;
- 2.6.3 Recitals;
- 2.6.4 Special Terms and Conditions;
- 2.6.5 General Terms and Conditions;
- 2.6.6 Attachment 2: Confidential Information Security Requirements; and
- 2.6.7 Any other provision, term or material incorporated herein by reference or otherwise incorporated.

2.7 INSURANCE

Contractor certifies that it is self-insured, is a member of a risk pool, or maintains the types and amounts of insurance identified above and will provide certificates of insurance to that effect to DOR upon request.

Upon request, Contractor must submit to DOR a certificate of insurance that outlines the coverage and limits defined in the Insurance section. If a certificate of insurance is requested, Contractor must submit renewal certificates as appropriate during the term of the contract.

The policy must be maintained for the term of this Contract and three (3) years following its termination.

3. GENERAL TERMS AND CONDITIONS

3.1 ACCESS TO DATA

In compliance with RCW 39.26.180(2) and federal rules, the Contractor must provide access to any data generated under this Contract to DOR, the Joint Legislative Audit and Review Committee, the State Auditor, and any other state or federal officials so authorized by law, rule, regulation, or agreement at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models.

3.2 ADVANCE PAYMENT PROHIBITED

No advance payment will be made for services furnished by the Contractor pursuant to this Contract.

3.3 AMENDMENTS

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

3.4 ASSIGNMENT

- 3.4.1 Contractor may not assign or transfer all or any portion of this Contract or any of its rights hereunder, or delegate any of its duties hereunder, except delegations as set forth in Section 3.29, *Subcontracting*, without the prior written consent of DOR. Any permitted assignment will not operate to relieve Contractor of any of its duties and obligations hereunder, nor will such assignment affect any remedies available to DOR that may arise from any breach of the provisions of this Contract or warranties made herein, including but not limited to, rights of setoff. Any attempted assignment, transfer or delegation in contravention of this Subsection 3.4.1 of the Contract will be null and void.
- 3.4.2 DOR may assign this Contract to any public agency, commission, board, or the like, within the political boundaries of the State of Washington, with written notice of thirty (30) calendar days to Contractor.

3.5 ATTORNEYS' FEES

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

3.6 CONFIDENTIAL INFORMATION PROTECTION

- 3.6.1 Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of Confidential Information. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without DOR's express written consent or as provided by law. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information (See Attachment 2: *Confidential Information Security Requirements*).

- 3.6.2 DOR reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this Contract. Violation of this section by Contractor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.
- 3.6.3 The obligations set forth in this Section will survive completion, cancellation, expiration, or termination of this Contract.

3.7 CONFIDENTIAL INFORMATION BREACH – REQUIRED NOTIFICATION

- 3.7.1 Contractor must notify the DOR Procurement and Contracts Manager at LoriG@dor.wa.gov or a proxy designated by BLS Partnership Services Manager within five (5) Business Days of discovery of any Breach or suspected Breach of Confidential Information.
- 3.7.2 Contractor will take steps necessary to mitigate any known harmful effects of such unauthorized access including, but not limited to, sanctioning employees and taking steps necessary to stop further unauthorized access. Contractor agrees to indemnify and hold DOR harmless for any damages related to unauthorized use or disclosure of Confidential Information by Contractor, its officers, directors, employees, Subcontractors or agents.
- 3.7.3 Any breach of this clause may result in termination of the Contract and the demand for return or disposition (Attachment 2, Section 6) of all Confidential Information.
- 3.7.4 Contractor's obligations regarding Breach notification survive the termination of this Contract and continue for as long as Contractor maintains the Confidential Information and for any breach or possible breach at any time.

3.8 CONTRACTOR'S PROPRIETARY INFORMATION

Contractor acknowledges that DOR is subject to Chapter 42.56 RCW, the Public Records Act, and that this Contract will be a public record as defined in Chapter 42.56 RCW. Any specific information that is claimed by Contractor to be Proprietary Information must be clearly identified as such by Contractor. To the extent consistent with Chapter 42.56 RCW, DOR will maintain the confidentiality of Contractor's information in its possession that is marked Proprietary. If a public disclosure request is made to view Contractor's Proprietary Information, DOR will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DOR will release the requested information on the date specified.

3.9 DISPUTES

The parties will use their best, good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Contract. Both parties will continue without delay to carry out their respective responsibilities under this Contract while attempting to resolve any dispute. When a genuine dispute arises between DOR and the Contractor regarding the terms of this Contract or the responsibilities imposed herein and it cannot be resolved between the parties' Contract Managers, either party may initiate the following dispute resolution process.

- 3.9.1 The initiating party will reduce its description of the dispute to writing and deliver it to the responding party (email acceptable). The responding party will respond in writing within five (5) Business Days (email acceptable). If the initiating party is not satisfied with the response of the responding party, the initiating party may request that the DOR Director review the dispute. Any such request from the initiating party must be submitted in writing to the DOR Director within five (5) Business Days after receiving the response of the responding party. The DOR Director will have sole discretion in determining the procedural manner in which he or she will review the dispute. The DOR Director will inform the parties in writing within five (5) Business Days of the procedural manner in which he or she will review the dispute, including a timeframe in which he or she will issue a written decision.
- 3.9.2 A party's request for a dispute resolution must:
 - 3.9.2.1 Be in writing;
 - 3.9.2.2 Include a written description of the dispute;
 - 3.9.2.3 State the relative positions of the parties and the remedy sought;
 - 3.9.2.4 State the Contract Number and the names and contact information for the parties;
- 3.9.3 This dispute resolution process constitutes the sole administrative remedy available under this Contract. The parties agree that this resolution process will precede any action in a judicial or quasi-judicial tribunal.

3.10 ENTIRE AGREEMENT

DOR and Contractor agree that the Contract is the complete and exclusive statement of the agreement between the parties relating to the subject matter of the Contract and supersedes all letters of intent or prior contracts, oral or written, between the parties relating to the subject matter of the Contract, except as provided in Section 3.30 *Warranties*.

3.11 FORCE MAJEURE

A party will not be liable for any failure of or delay in the performance of this Contract for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders or any other force majeure event.

3.12 FUNDING WITHDRAWN, REDUCED OR LIMITED

If DOR determines, in its sole discretion that the funds it relied upon to establish this Contract have been withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding after the effective date of this contract but prior to the normal completion of this Contract, then DOR, at its sole discretion, may:

3.12.1 Terminate this Contract pursuant to Section 3.28.3, *Termination for Non-Allocation of Funds*;

3.12.2 Renegotiate the Contract under the revised funding conditions; or

3.12.3 Suspend Contractor's performance under the Contract upon five (5) Business Days' advance written notice to Contractor. DOR will use this option only when DOR determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this Contract.

3.12.3.1 During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.

3.12.3.2 When DOR determines in its sole discretion that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to DOR informing DOR whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.

3.12.3.3 If the Contractor's proposed resumption date is not acceptable to DOR and an acceptable date cannot be negotiated, DOR may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DOR will be liable only for payment in accordance with the

terms of this Contract for services rendered prior to the retroactive date of termination.

3.13 GOVERNING LAW

This Contract is governed in all respects by the laws of the state of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder is exclusively in the Superior Court for the state of Washington, and the venue of any action hereunder is in the Superior Court for Thurston County, Washington. Nothing in this Contract will be construed as a waiver by DOR of the State's immunity under the 11th Amendment to the United States Constitution.

3.14 DOR NETWORK SECURITY

Contractor agrees not to attach any Contractor supplied computers, peripherals or software to the DOR Network without prior written authorization from DOR's Chief Information Officer. Unauthorized access to DOR networks and systems is a violation of DOR Policy and constitutes computer trespass in the first degree pursuant to Chapter 9A.90.040 RCW. Violation of any of these laws or policies could result in termination of the contract and other penalties.

Contractor will have access to the DOR visitor or Guest Wi-Fi Internet connection while on site if available at the DOR office(s).

3.15 INDEMNIFICATION

Contractor must defend, indemnify, and save DOR harmless from and against all claims, including reasonable attorneys' fees resulting from such claims, for any or all injuries to persons or damage to property, or Breach of its confidentiality and notification obligations under Section 3.6 *Confidential Information Protection* arising from intentional or negligent acts or omissions of Contractor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents, in the performance of this Contract.

3.16 NO THIRD-PARTY BENEFICIARIES

DOR and Contractor are the only parties to this contract. Nothing in this Contract gives or is intended to give any benefit of this Contract to any third parties.

3.17 NONDISCRIMINATION

During the performance of this Contract, the Contractor must comply with all federal and state nondiscrimination laws, regulations and policies, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 et seq.; the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §12101 et seq., 28 CFR Part 35; and Title 49.60 RCW, Washington Law Against Discrimination. In the event of Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be

rescinded, cancelled, or terminated in whole or in part under the Termination for Default sections, and Contractor may be declared ineligible for further contracts with DOR.

3.18 OVERPAYMENTS TO CONTRACTOR

In the event that overpayments or erroneous payments have been made to the Contractor under this Contract, DOR will provide written notice to Contractor and Contractor will refund the full amount to DOR within thirty (30) calendar days of the notice. If Contractor fails to make timely refund, DOR may charge Contractor one percent (1%) per month on the amount due, until paid in full. If the Contractor disagrees with DOR's actions under this section, then it may invoke the dispute resolution provisions of Section 3.9 *Disputes*.

3.19 PAY EQUITY

- 3.19.1 Contractor represents and warrants that, as required by Washington state law (Laws of 2017, Chap. 1, § 213), during the term of this Contract, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if (i) the individuals work for Contractor, (ii) the performance of the job requires comparable skill, effort, and responsibility, and (iii) the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed.
- 3.19.2 Contractor may allow differentials in compensation for its workers based in good faith on any of the following: (i) a seniority system; (ii) a merit system; (iii) a system that measures earnings by quantity or quality of production; (iv) bona fide job-related factor(s); or (v) a bona fide regional difference in compensation levels.
- 3.19.3 "Bona fide job-related factor(s)" may include, but not be limited to, education, training, or experience, that is: (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) accounts for the entire differential.
- 3.19.4 A "bona fide regional difference in compensation level" must be (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) account for the entire differential.
- 3.19.5 Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) Days of DOR's request for such evidence, DOR may suspend or terminate this Contract.

3.20 RECORDS AND DOCUMENTS REVIEW

- 3.20.1 The Contractor must maintain books, records, documents, magnetic media, receipts, invoices or other evidence relating to this Contract and the performance of

the services rendered, along with accounting procedures and practices, all of which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. At no additional cost, these records, including materials generated under this Contract, are subject at all reasonable times to inspection, review, or audit by DOR, the Office of the State Auditor, and state and federal officials so authorized by law, rule, regulation, or agreement [See 42 USC 1396a(a)(27)(B); 42 USC 1396a(a)(37)(B); 42 USC 1396a(a)(42)(A); 42 CFR 431, Subpart Q; and 42 CFR 447.202].

3.20.2 The Contractor must retain such records for a period of six (6) years after the date of final payment under this Contract.

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

3.21 REMEDIES NON-EXCLUSIVE

The remedies provided in this Contract are not exclusive, but are in addition to all other remedies available under law.

3.22 RIGHT OF INSPECTION

The Contractor must provide right of access to its facilities to DOR, 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, compliance, and/or quality assurance under this Contract.

3.23 RIGHTS IN DATA/OWNERSHIP

3.23.1 DOR and Contractor agree that all data and work products (collectively "Work Product") produced and transferred to Contractor pursuant to this Contract will be considered a *work for hire* under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and will be owned exclusively by DOR.

3.23.2 Contractor will not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership of any Work Product, without the prior written permission of DOR. Contractor will take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors will not copy, share, sell, disclose, transmit, disseminate or use any part or portion of DOR's Work Product, or any portion thereof, in any form, to any third party.

3.24 RIGHTS OF STATE AND FEDERAL GOVERNMENTS

In accordance with 45 C.F.R. 95.617, all appropriate state and federal agencies, will have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, translate, or

otherwise use, and to authorize others to use for Federal Government purposes: (i) software, modifications, and documentation designed, developed or installed with Federal Financial Participation (FFP) under 45 CFR Part 95, subpart F; (ii) the Custom Software and modifications of the Custom Software, and associated Documentation designed, developed, or installed with FFP under this Contract; (iii) the copyright in any work developed under this Contract; and (iv) any rights of copyright to which Contractor purchases ownership under this Contract.

3.25 SEVERABILITY

If any provision of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity will not affect the other provisions or applications of this Contract that can be given effect without the invalid provision, and to this end the provisions or application of this Contract are declared severable.

3.26 SUBCONTRACTING

- 3.26.1 Neither Contractor, nor any Subcontractors, may enter into subcontracts for any of the work contemplated under this Contract without prior written approval of DOR. DOR has sole discretion to determine whether or not to approve any such subcontract. In no event will the existence of the subcontract operate to release or reduce the liability of Contractor to DOR for any breach in the performance of Contractor's duties.
- 3.26.2 Contractor is responsible for ensuring all terms, conditions, assurances and certifications set forth in this Contract are included in any subcontracts.
- 3.26.3 The rejection or approval by the DOR of any Subcontractor or the termination of a Subcontractor will not relieve Contractor of any of its responsibilities under the Contract, nor be the basis for additional charges to DOR.
- 3.26.4 DOR has no contractual obligations to any Subcontractor or vendor under contract to the Contractor. Contractor is fully responsible for all contractual obligations, financial or otherwise, to its Subcontractors.

3.27 SURVIVAL

The terms and conditions contained in this Contract that, by their sense and context, are intended to survive the completion, cancellation, termination, or expiration of the Contract will survive. In addition, the terms of the sections titled *Confidential Information Protection, Confidential Information Breach – Required Notification, Contractor's Proprietary Information, Disputes, Overpayments to Contractor, Publicity, Records and Documents Review, Rights in Data/Ownership, and Rights of State and Federal Governments* will survive the termination of this Contract. The right of DOR to recover any overpayments will also survive the termination of this Contract.

3.28 TERMINATION

3.28.1 TERMINATION FOR DEFAULT

In the event DOR determines that Contractor has failed to comply with the terms and conditions of this Contract, DOR has the right to suspend or terminate this Contract. DOR will notify Contractor in writing of the need to take corrective action. If corrective action is not taken within five (5) Business Days, or other time period agreed to in writing by both parties, the Contract may be terminated. DOR reserves the right to suspend all or part of the Contract, or prohibit Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by Contractor or a decision by DOR to terminate the Contract.

In the event of termination for default, Contractor will be liable for damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising, and staff time.

If it is determined that Contractor: (i) was not in default, or (ii) its failure to perform was outside of its control, fault or negligence, the termination will be deemed a "Termination for Convenience."

3.28.2 TERMINATION FOR CONVENIENCE

When, at DOR's sole discretion, it is in the best interest of the State, DOR may terminate this Contract in whole or in part by providing ten (10) calendar days' written notice. If this Contract is so terminated, DOR will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty will accrue to DOR in the event the termination option in this section is exercised.

3.28.3 TERMINATION FOR NONALLOCATION OF FUNDS

If funds are not allocated to continue this Contract in any future period, DOR may immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. DOR will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. DOR agrees to notify Contractor of such nonallocation at the earliest possible time. No penalty will accrue to DOR in the event the termination option in this section is exercised.

3.28.4 TERMINATION FOR WITHDRAWAL OF AUTHORITY

In the event that the authority of DOR to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, DOR may immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. DOR will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. DOR agrees to notify Contractor of such withdrawal of authority at the earliest possible time. No penalty will accrue to DOR in the event the termination option in this section is exercised.

3.28.5 TERMINATION FOR CONFLICT OF INTEREST

DOR may terminate this Contract by written notice to the Contractor if DOR determines, after due notice and examination, that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, DOR will be entitled to pursue the same remedies against the Contractor as it could pursue in the event Contractor breaches the contract.

3.29 WAIVER

Waiver of any breach of any term or condition of this Contract will not be deemed a waiver of any prior or subsequent breach or default. No term or condition of this Contract will be held to be waived, modified, or deleted except by a written instrument signed by the parties. Only the DOR Authorized Representative has the authority to waive any term or condition of this Contract on behalf of DOR.

3.30 WARRANTIES

- 3.30.1 Contractor represents and warrants that it will perform all services pursuant to this Contract in a professional manner and with high quality and will immediately re-perform any services that are not in compliance with this representation and warranty at no cost to DOR.
- 3.30.2 Contractor represents and warrants that it will comply with all applicable local, State, and federal licensing, accreditation and registration requirements and standards necessary in the performance of the Services.
- 3.30.3 Any written commitment by Contractor within the scope of this Contract will be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and will render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes:

(i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor to DOR or contained in any Contractor publications, or descriptions of services in written or other communication medium, used to influence DOR to enter into this Contract.

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Attachment 1

RCW 35.90.020

RCW 35.90.020

Licensing as partnership with department—Partnership priority—Biennial plan—Exception—Report.

(1) Except as otherwise provided in subsection (7) of this section, a city that requires a general business license of any person that engages in business activities within that city must partner with the department to have such license issued, and renewed if the city requires renewal, through the business licensing service in accordance with chapter 19.02 RCW.

(a) Except as otherwise provided in subsection (3) of this section, the department must phase in the issuance and renewal of general business licenses of cities that required a general business license as of July 1, 2017, and are not already partnering with the department, as follows:

(i) Between January 1, 2018, and December 31, 2021, the department must partner with at least six cities per year;

(ii) Between January 1, 2022, and December 31, 2027, the department must partner with the remaining cities; or

(iii) Between July 1, 2017 and December 31, 2022, the department must partner with all cities requiring a general business license if specific funding for the purposes of this subsection [(1)(a)](iii) is appropriated in the omnibus appropriations act.

(b) A city that imposes a general business license requirement and does not partner with the department as of January 1, 2018, may continue to issue and renew its general business licenses until the city partners with the department as provided in subsection (4) of this section.

(2) (a) A city that did not require a general business license as of July 1, 2017, but imposes a new general business license requirement after that date must advise the department in writing of its intent to do so at least ninety days before the requirement takes effect.

(b) If a city subject to (a) of this subsection (2) imposes a new general business license requirement after July 1, 2017, the department, in its sole discretion, may adjust resources to partner with the imposing city as of the date that the new general business licensing requirement takes effect. If the department cannot reallocate resources, the city may issue and renew its general business license until the department is able to partner with the city.

(3) The department may delay assuming the duties of issuing and renewing general business licenses beyond the dates provided in subsection (1)(a) of this section if:

(a) Insufficient funds are appropriated for this specific purpose;

(b) The department cannot ensure the business licensing system is adequately prepared to handle all general business licenses due to unforeseen circumstances;

(c) The department determines that a delay is necessary to ensure that the transition to mandatory department issuance and renewal of general business licenses is as seamless as possible; or

(d) The department receives a written notice from a city within sixty days of the date that the city appears on the department's biennial partnership plan, which includes an explanation of the fiscal or technical challenges causing the city to delay joining the system. A delay under this subsection (3)(d) may be for no more than three years.

(4) (a) In consultation with affected cities and in accordance with the priorities established in subsection (5) of this section, the department must establish a biennial plan for partnering with cities to assume the issuance and renewal of general business licenses as required by this section. The plan must identify the cities that the department will partner with and the dates targeted for the department to assume the duties of issuing and renewing general business licenses.

(b) By January 1, 2018, and January 1st of each even-numbered year thereafter, the department must submit the partnering plan required in (a) of this subsection (4) to the governor; legislative fiscal committees; house local government committee; senate agriculture, water, trade and economic development committee; senate local government committee; affected cities; association of Washington cities; association of Washington business; national federation of independent business; and Washington retail association.

(c) The department may, in its sole discretion, alter the plan required in (a) of this subsection (4) with a minimum notice of thirty days to affected cities.

(5) When determining the plan to partner with cities for the issuance and renewal of general business licenses as required in subsection (4) of this section, cities that notified the department of their wish to partner with the department before January 1, 2017, must be allowed to partner before other cities.

(6) A city that partners with the department for the issuance and renewal of general business licenses through the business licensing service in accordance with chapter [19.02](#) RCW may not issue and renew those licenses.

(7) A city may decline to partner with the department for the issuance and renewal of a general business license as provided in subsection (1) of this section if the city participates in the online local business license and tax filing portal known as "FileLocal" as of July 1, 2020. For the purposes of this subsection (7), a city is considered to be a FileLocal participant as of the date that a business may

access FileLocal for purposes of applying for or renewing that city's general business license and reporting and paying that city's local business and occupation taxes. A city that ceases participation in FileLocal after July 1, 2020, must partner with the department for the issuance and renewal of its general business license as provided in subsection (1) of this section.

(8) By January 1, 2019, and each January 1st thereafter through January 1, 2028, the department must submit a progress report to the legislature. The report required by this subsection must provide information about the progress of the department's efforts to partner with all cities that impose a general business license requirement and include:

- (a) A list of cities that have partnered with the department as required in subsection (1) of this section;
- (b) A list of cities that have not partnered with the department;
- (c) A list of cities that are scheduled to partner with the department during the upcoming calendar year;
- (d) A list of cities that have declined to partner with the department as provided in subsection (7) of this section;
- (e) An explanation of lessons learned and any process efficiencies incorporated by the department;
- (f) Any recommendations to further simplify the issuance and renewal of general business licenses by the department; and
- (g) Any other information the department considers relevant.

Attachment 2

Confidential Information Security Requirements

1. Definitions

In addition to the definitions set out in Section 1 of this Contract K2069 for Business Licensing Services, the definitions below apply to this Attachment.

- a. "Hardened Password" means a string of characters containing at least three of the following character classes: upper case letters; lower case letters; numerals; and special characters, such as an asterisk, ampersand or exclamation point.
 - i. Passwords for external authentication must be a minimum of 10 characters long.
 - ii. Passwords for internal authentication must be a minimum of 8 characters long.
 - iii. Passwords used for system service or service accounts must be a minimum of 20 characters long.
- b. "Portable/Removable Media" means any Data storage device that can be detached or removed from a computer and transported, including but not limited to: optical media (e.g. CDs, DVDs); USB drives; or flash media (e.g. CompactFlash, SD, MMC).
- c. "Portable/Removable Devices" means any small computing device that can be transported, including but not limited to: handhelds/PDAs/Smartphones; Ultramobile PC's, flash memory devices (e.g. USB flash drives, personal media players); and laptops/notebook/tablet computers. If used to store Confidential Information, devices should be Federal Information Processing Standards (FIPS) Level 2 compliant.
- d. "Secured Area" means an area to which only Authorized Users have access. Secured Areas may include buildings, rooms, or locked storage containers (such as a filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.
- e. "Transmitting" means the transferring of data electronically, such as via email, SFT, web services, AWS Snowball, etc.
- f. "Trusted System(s)" means the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service ("USPS") first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.

- g. "Unique User ID" means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase, or other mechanism, authenticates a user to an information system.

2. Confidential Information Transmitting

- a. When transmitting DOR's Confidential Information electronically, including via email, the Data must be encrypted using NIST 800-series approved algorithms (<http://csrc.nist.gov/publications/PubsSPs.html>). This includes transmission over the public internet.
- b. When transmitting DOR's Confidential Information via paper documents, the Receiving Party must use a Trusted System.

3. Protection of Confidential Information

The Contractor agrees to store Confidential Information as described:

- a. Data at Rest:
 - i. Data will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data. Access to the Data will be restricted to Authorized Users through the use of access control lists, a Unique User ID, and a Hardened Password, or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Systems which contain or provide access to Confidential Information must be located in an area that is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
 - ii. Data stored on Portable/Removable Media or Devices:
 - Confidential Information provided by DOR on Removable Media will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the Data.
 - DOR's data must not be stored by the Contractor on Portable Devices or Media unless specifically authorized within a Data Share Agreement. If so authorized, the Receiving Party must protect the Data by:
 - 1. Encrypting with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data;
 - 2. Control access to the devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics;
 - 3. Keeping devices in locked storage when not in use;
 - 4. Using check-in/check-out procedures when devices are shared;

5. Maintain an inventory of devices; and
 6. Ensure that when being transported outside of a Secured Area, all devices with Data are under the physical control of an Authorized User.
- b. Paper documents. Any paper records containing Confidential Information must be protected by storing the records in a Secured Area that is accessible only to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

4. Confidential Information Segregation

DOR Confidential Information received under this Agreement must be segregated or otherwise distinguishable from non-DOR data. This is to ensure that when no longer needed by the Contractor, all DOR Confidential Information can be identified for return or destruction. It also aids in determining whether DOR Confidential Information has or may have been compromised in the event of a security Breach.

- a. The DOR Confidential Information must be kept in one of the following ways:
 - i. on media (e.g. hard disk, optical disc, tape, etc.) which will contain only DOR Data; or
 - ii. in a logical container on electronic media, such as a partition or folder dedicated to DOR's Data; or
 - iii. in a database that will contain only DOR Data; or
 - iv. within a database and will be distinguishable from non-DOR Data by the value of a specific field or fields within database records; or
 - v. when stored as physical paper documents, physically segregated from non-DOR Data in a drawer, folder, or other container.
- b. When it is not feasible or practical to segregate DOR Confidential Information from non-DOR data, then both the DOR Confidential Information and the non-DOR data with which it is commingled must be protected as described in this Attachment.

5. Confidential Information Shared with Subcontractors

If DOR Confidential Information provided under this Agreement is to be shared with a Subcontractor, the contract with the Subcontractor must include all of the Confidential Information Security Requirements.

6. Confidential Information Disposition

When the Confidential Information is no longer needed, except as noted below, the Confidential Information must be returned to DOR or destroyed. Media are to be destroyed using a method documented within NIST 800-88 (<http://csrc.nist.gov/publications/PubsSPs.html>).

- a. For DOR's Confidential Information stored on network disks, deleting unneeded Confidential Information is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in Section 3, above. Destruction of the Confidential Information as outlined in this section of this Attachment may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

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Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 7/12/2022

Agenda Number: O-1

Action Item

Title: Ordinance Amending the 2022 Budget for Citywide Street Crack Sealing

From: Dale Novobielski, Clerk/Treasurer

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: Fund 115 Local Access St. Improv.

Funding Source: See Above

Background/Findings/Facts: To amend the 2022 budget for citywide street crack sealing

Recommended Motion: I move to approve the Resolution in the form presented.

Record of all prior actions taken by the City Council and/or City Board, City Committee, Planning Commission, or the Hearing Examiner (if not applicable, please state none).

Date: **Action Taken:** None

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE 2022 BUDGET FOR CITYWIDE STREET CRACK
SEALING

WHEREAS, the City desires to approve an increase in the 2022 Budget for citywide street crack sealing;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON,
does ordain that the Clerk-Treasurer be authorized to amend the 2022 Budget as follows:

111 Street Improvement

111.000.095.397.00.00.00	Operating Transfers-In	\$ 8,448
111.000.095.595.30.63.36	Crack Sealing – Street Repairs	8,448

115 Local Access St. Improv.

115.000.097.597.00.01.00	Operating Transfers-Out – F111 St Improv	\$ 8,448
115.000.008.508.10.00.00	New Ending Reserved Cash & Invest.	\$ 148,675

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF SELAH,
WASHINGTON this 12th day of July 2022.

Sherry Raymond, Mayor

ATTEST:

Dale E. Novobielski, Clerk-Treasurer

APPROVED AS TO FORM:

Rob Case, City Attorney

ORDINANCE NO. _____



Selah City Council

Regular Meeting

AGENDA ITEM SUMMARY

Meeting Date: 7/12/2022

Agenda Number: O-2

Action Item

Title: An Ordinance of the City of Selah, Washington, Providing for the Submission to the Voters of the City at a Special Election to be Held on November 8, 2022, in Conjunction with the State Election to be Held on the Same Date, of a Proposition Authorizing the City to Issue General Obligation Bonds in the Aggregate Principal Amount of no more than \$12,700,000 for the Purpose of Paying Costs of Constructing a Law and Justice Center, the Principal of and Interest Payments on such Bonds to be Payable from Annual Excess Property Tax Levies; Designating the City Administrator and Bond Counsel to Receive Notice of Ballot Title from the Yakima County Auditor; and Providing for Related Matters.

From: Rob Case, City Attorney, and Lee Marchisio, Bond Counsel

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: Up to \$12,700,000.00

Funding Source: N/A. The funds would be borrowed by the City (via issuance of Bonds) and then repaid with interest thereon from excess property taxes. There will be no impact on the City's general fund.

Background/Findings/Facts: This pertains to the City Council's desire to build a Law and Justice Center. The bulk of the now-proposed Ordinance was authored by the City's retained bond counsel, the law firm of Foster Garvey PC and attorney Lee Marchisio. City Attorney Rob Case made formatting changes and some minimal substantive changes to the now-proposed Ordinance. Because the City does not have sufficient available funds for the Law and Justice Center project, the City Council desires to seek voter approval for the City to borrow the funds via issuance of General Obligation Bonds. No more than twelve million seven hundred thousand dollars (\$12,700,000.00) would be borrowed. The maturity date on the Bond(s), whereby full repayment and satisfaction must occur, would be thirty-one (31) years or less from the date(s) of issuance. The specific applicable interest rate(s) are not yet precisely known, but would be generally consistent with the single-digit rates that have been previously discussed between the City Council and staff. The Bond(s) would be repaid, along with accrued interest, from annual excess property tax levies collected by the City without impact on the City's general fund. This multi-part now-proposed Ordinance is necessary for several reasons. First, the City Council needs to authorize the presentation of a ballot proposition to the voters. Second, specific language needs to exist within an Ordinance in order for the City be able to seek, obtain and issue the correct type of

Bond(s). Third, the contemplated language of the ballot proposition needs to be specified. Fourth, certain designations need to occur and be publicized.

If the City Council approves the now-presented Ordinance, that will move things along to the next step. No money(ies) would be immediately borrowed. Rather, the money(ies) would only be borrowed if the voters approve – by the required threshold and margin – the ballot proposition via a special election to be held on November 8, 2022.

Recommended Motion: I move to approve the Ordinance in the form presented.

Record of all prior actions taken by the City Council and/or City Board, City Committee, Planning Commission, or the Hearing Examiner (if not applicable, please state none).

Date:	Action Taken:
03/08/2022	Study Session Regarding Law and Justice Center
03/22/2022	Study Session Regarding Law and Justice Center
10/26/2021	Ordinance No. 2145 Amending the City Budget for Architectural Design Services for a Law and Justice Center
08/24/2021	Resolution No. 2866 Authorizing the Mayor to Sign a Contract Between the City of Selah and Mackenzie for Architectural Services for the Design of a Law & Justice Center

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF SELAH, WASHINGTON, PROVIDING FOR THE SUBMISSION TO THE VOTERS OF THE CITY AT A SPECIAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, IN CONJUNCTION WITH THE STATE GENERAL ELECTION TO BE HELD ON THE SAME DATE, OF A PROPOSITION AUTHORIZING THE CITY TO ISSUE GENERAL OBLIGATION BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NO MORE THAN \$12,700,000 FOR THE PURPOSE OF PAYING COSTS OF CONSTRUCTING A LAW AND JUSTICE CENTER, THE PRINCIPAL OF AND INTEREST PAYMENTS ON SUCH BONDS TO BE PAYABLE FROM ANNUAL EXCESS PROPERTY TAX LEVIES; DESIGNATING THE CITY ADMINISTRATOR AND BOND COUNSEL TO RECEIVE NOTICE OF BALLOT TITLE FROM THE YAKIMA COUNTY AUDITOR; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the City Council desires to have a Law and Justice Center designed and built, and for related materials, land, rights and other items to be acquired; and

WHEREAS, the City Council desires to fund all or substantially all of such project from proceeds of general obligation bonds of the City and to levy annual excess property taxes in amounts sufficient to pay principal of and interest on such bonds; and

WHEREAS, the City Council has determined it is necessary to issue such bonds in the aggregate principal amount of no more than \$12,700,000 to carry out and accomplish such project; and

WHEREAS, the City Council desires to submit to the voters of the City of Selah at a special election to be held on November 8, 2022, in conjunction with the State General election to be held on the same date, a ballot proposition authorizing the City to issue such bonds and levy such excess taxes; and

WHEREAS, the City Council also desires to designate the City Administrator, Joe Henne, and bond counsel, the law firm of Foster Garvey PC and lawyer Lee Marchisio, to receive notice of the corresponding ballot title from the Yakima County Auditor; and

WHEREAS, the City Council also desires to provide for related matters;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Findings and Determinations. In addition to the preceding recitals, which are incorporated herein, the City Council of the City of Selah, Washington (the "City"), further takes note of the following facts and makes the following findings and determinations:

(a) There is a need for different, larger, more modern and generally improved premises for the City's police department and the City's municipal court; there is a related need to improve safety and security for the police department and municipal court; there is a further related need to reduce the police department's emergency response times when responding to or working to prevent crime, when working to preserve the public peace, and when working to protect life, property and the rights of all persons; and these needs require the City to: design, construct and acquire a new Law and Justice Center suitable for serving the community's current and future

police department and municipal court needs, all as more particularly defined and described in Section 2 below (the “Project”).

(b) The City lacks sufficient money to pay costs of the Project.

(c) To pay costs of the Project, it is necessary and advisable that the City issue and sell unlimited tax general obligation bonds in the aggregate principal amount of no more than \$12,700,000 (the “Bonds”), or such lesser maximum amount as may be legally issued under the laws governing the limitation of indebtedness or required to carry out and accomplish the Project.

(d) Under Article VII, Section 2(b) and Article VIII, Section 6 of the Washington Constitution and the laws of the State of Washington, including chapters 35A.40, 39.36 and 84.52 of the Revised Code of Washington (“RCW”), the City may submit to its voters at a special election, for their approval or rejection, a proposition authorizing the City to issue the Bonds to pay costs of the Project and to levy annual excess property taxes in amounts sufficient to pay principal of and interest on the Bonds when due (*i.e.*, repay the Bonds).

(e) The best interests of the City and its residents require the City to carry out and accomplish the Project.

Section 2. Description of the Project. The Project to be paid for with proceeds of the Bonds, including interest earnings thereon (“Bond Proceeds”), is more particularly defined and described as follows:

(a) Design, construct and acquire a Law and Justice Center to replace both the existing police station (which is currently located in rented premises owned by a commercial landlord) and the existing municipal court (which is currently located in a portion of City Hall) that will include without limitation: police station facilities (including soundproof interview rooms, confidential workspaces and a secure entrance for detainee transport) and municipal court facilities (including a courtroom that may also serve as a public meeting facility or City Council chambers), all as determined necessary and advisable by the City Council.

(b) Acquire, construct and install all necessary facilities, equipment, apparatus, accessories, fixtures and appurtenances in or for the foregoing, all as determined necessary and advisable by the City Council.

(c) Pay incidental costs incurred in connection with carrying out and accomplishing the Project described above under RCW 39.46.070 and other laws. Such incidental costs constitute a part of the Project and include without limitation: (1) costs related to the issuance, sale and delivery of the Bonds; (2) payments for fiscal and legal costs; (3) costs of obtaining ratings and bond insurance; (4) costs of printing, advertising, establishing and funding accounts; (5) payment of interest due on the Bonds for up to six months after completion of construction; (6) necessary and related engineering, architectural, planning, consulting, inspection, permitting and testing costs; (7) administrative and relocation costs; (8) site assessment, acquisition and improvement costs; (9) demolition costs; (10) costs related to demolition and/or deconstruction of existing facilities to recycle, reclaim and repurpose such facilities and/or building materials; (11) costs of on-site and off-site utilities and road improvements; and (12) costs of other similar activities or purposes, all as determined necessary and advisable by the City Council.

The City is authorized to accomplish the Project, or any parts, insofar as is practicable with available Bond Proceeds, and subject to Section 6 of this Ordinance, the City Council shall allocate Bond Proceeds, together with any other money of the City legally available therefor, between the various parts of the Project so as to accomplish, as near as may be, all of the Project. The City Council shall determine the time, order, extent and specifications for the Project. The Project is to be more fully described in the plans and specifications to be filed with the City.

Section 3. Calling of Election.

(a) The Auditor of Yakima County, Washington, as *ex officio* Supervisor of Elections (the “Auditor”), is requested to call and conduct a special election, in the manner provided by law, to be held in the City on November 8, 2022 (the “Special Election”), in conjunction with the State General election to be held on the same date, for the purpose of submitting to the City’s voters, for their approval or rejection, the proposition authorizing the City to issue the Bonds to pay costs of the Project and levy annual excess property taxes to repay the Bonds.

(b) If the proposition is approved by the requisite number of voters, the City will be authorized to issue, sell and deliver the Bonds in the manner described in this Ordinance, spend the Bond Proceeds to pay costs of the Project and levy annual excess property taxes to repay the Bonds. The Bond Proceeds may be used, either with or without additional money now or at any time available to the City, for capital purposes only, as permitted by law, excluding the replacement of equipment.

Section 4. Authorization to Issue the Bonds.

(a) The City may issue the Bonds as a single bond, as a single issue, as a part of a combined issue with other authorized bonds or in more than one series, all as determined necessary and advisable by the City Council and as permitted by law. The City may issue the Bonds, as determined necessary and advisable by the City Council, as taxable bonds, tax-exempt bonds or any other type of bonds that are now or in the future may be authorized under applicable state and federal law.

(b) The Bonds will be issued as fully registered bonds; bear interest payable as permitted by law; mature within 31 years from the date of issuance (but may mature at an earlier date or dates as fixed by the City Council); be paid by annual property tax levies sufficient in amount to pay both principal and interest when due, which annual property tax levies will be made in excess of regular property tax levies without limitation as to rate or amount; and be issued and sold in the manner, times and amounts required for the purpose for which the Bonds are to be issued, all as determined necessary and advisable by the City Council and as permitted by law. The life of the Project to be financed with Bond Proceeds must as near as practicable or as otherwise required by law exceed the term of the respective Bonds that finance the Project. The amount, date, denominations, interest rates, payment dates, final maturity, redemption rights, price, and other terms and conditions of the Bonds (or parameters with respect thereto) will be fixed by one or more ordinances of the City Council authorizing the issuance, sale and delivery of the Bonds, which ordinances may delegate to a City officer or employee the authority to fix any of the foregoing, all as determined necessary and advisable by the City Council and as permitted by law.

(c) Pending the issuance of any series of the Bonds, the City may levy excess property

taxes to repay those Bonds and may issue short-term obligations pursuant to chapter 39.50 RCW to pay for any portion of the costs of the Project. The short-term obligations may be paid or refunded with Bond Proceeds.

Section 5. Intent to Reimburse. To the extent the City makes capital expenditures for the Project prior to the date the City issues the Bonds (including the Bonds or other bonds or obligations issued as tax-exempt bonds) to finance the Project from funds that are not (and are not reasonably expected to be) reserved, allocated on a long-term basis or otherwise set aside by the City under its existing and reasonably foreseeable budgetary and financial circumstances to pay costs of the Project, the City Council declares those capital expenditures are intended to be reimbursed out of Bond Proceeds, or proceeds of other bonds or obligations, issued in an amount not to exceed the principal amount of the Bonds provided by this Ordinance.

Section 6. Sufficiency of Bond Proceeds. If Bond Proceeds are more than sufficient to carry out and accomplish the Project, the City may use those excess Bond Proceeds to: (a) acquire, construct, remodel, renovate, install, equip, furnish and make other capital improvements to City facilities for police, municipal court and other law and justice purposes; or (b) retire and/or defease a portion of the Bonds or other outstanding bonds of the City, all as the City Council may determine necessary or advisable and as permitted by law. In the event the Bond Proceeds, together with any other money of the City legally available, are insufficient to carry out and accomplish all of the Project, the City may use the Bond Proceeds and other available money for paying the costs of any parts of the Project the City Council determines most necessary and in the best interests of the City.

Section 7. Alteration of Expenditures. If the City Council subsequently determines circumstances (including without limitation changed conditions or needs or regulatory considerations) require alterations to the Project, the City will not be required to accomplish all of the Project and may apply the Bond Proceeds (or any portion) to: (a) the acquisition, construction, installation or equipping of other equipment, apparatus or facilities of the City and the making of other capital improvements thereto; or (b) the retirement and/or defeasance of all or a portion of the Bonds or other outstanding bonds of the City, all as determined necessary or advisable by the City Council.

Section 8. Form of Ballot Title. Pursuant to RCW 29A.36.071, the City Attorney, Rob Case, is authorized and directed to prepare the concise description of the aforesaid proposition for the ballot title in substantially the following form:

PROPOSITION NO. 1

CITY OF SELAH, WASHINGTON

BONDS TO CONSTRUCT LAW AND JUSTICE CENTER

The City Council of the City of Selah, Washington, passed Ordinance No. ____, concerning law and justice facilities to prevent crime and protect rights. This proposition would authorize the City to: construct a Law and Justice Center suitable for serving the community's current and future police department and municipal court needs and for preventing crime, preserving the public peace, and protecting life,

Ordinance No. ____

property and the rights of all persons; issue no more than \$12,700,000 of general obligation bonds maturing within 31 years; and levy annual excess property taxes to repay the bonds, all as specified in Ordinance No. _____. Should this proposition be:

Approved ☐

Rejected ☐

Section 9. Authorization to Deliver Ordinance to Auditor and Perform Other Necessary Duties. The City Administrator or his designee is authorized and directed to: (a) present a certified copy of this ordinance to the Auditor no later than August 2, 2022; and (b) perform such other duties as are necessary or required by law to submit to the City's voters at the Special Election, for their approval or rejection, the proposition authorizing the City to issue the Bonds to pay costs of the Project and levy annual excess property taxes to repay the Bonds.

Section 10. Notices Relating to Ballot Title. For purposes of receiving notice of the exact language of the ballot title required by RCW 29A.36.080, the City Council designates (a) the City Administrator (Joe Henne), telephone: 509.698.7328; email: joe.henne@selahwa.gov; and (b) bond counsel, Foster Garvey P.C. (Lee Marchisio), telephone: 206.447.6264; email: lee.marchisio@foster.com, as the individuals to whom the Auditor shall provide such notice. The City Administrator is authorized to approve changes to the ballot title, if any, determined necessary by the Auditor.

Section 11. General Authorization and Ratification of Prior Acts. The Mayor, the City Administrator, the City Clerk, other appropriate officers of the City and the City's bond counsel, Foster Garvey P.C., are authorized to take such actions and to create, accept, execute, send, use and rely upon such documents, records and signatures (including in tangible medium, manual, facsimile or electronic form, under any security procedure or platform, and notwithstanding any other City ordinance, resolution, rule or policy) as in their judgment may be necessary or desirable to effectuate the provisions of this ordinance. All actions taken prior to the effective date of this ordinance in furtherance of the purposes described in this ordinance and not inconsistent with the terms of this ordinance are ratified and confirmed in all respects.

Section 12. Severability. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, holds any provision of this ordinance invalid or unenforceable, then the offending provision is null and void, is separate and severable from the remaining provisions of this ordinance and in no way affects the validity of the other provisions of this ordinance, of the Bonds or of the levy or collection of the taxes pledged to repay the Bonds.

Section 13. Effective Date. This Ordinance takes effect from and after its passage and five days following its publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Selah, Washington, at a regular open public meeting held this 12th day of July, 2022.

CITY OF SELAH, WASHINGTON

Mayor Sherry Raymond

ATTEST:

Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Rob Case, City Attorney

CERTIFICATION

I, Dale E. Novobielski, City Clerk of the City of Selah, Washington (the “City”), certify as follows:

1. The foregoing Ordinance No. _____ (the “Ordinance”) is a full, true and correct copy of the Ordinance duly passed at a regular meeting of the City Council held at its regular meeting place on July 12, 2022 (the “Meeting”), as that Ordinance appears on the minute book of the City.

2. The Ordinance will be in full force and effect five days after publication in the City’s official newspaper, which publication date is _____, 2022.

3. The Meeting was duly convened, held and included an opportunity for public comment, in all respects in accordance with law, a quorum of the members of the City Council was present throughout the meeting and a sufficient number of members of the City Council present voted in the proper manner for the passage of the Ordinance.

DATED: July 12, 2022.

CITY OF SELAH, WASHINGTON

Dale E. Novobielski, Clerk/Treasurer