



SELAH CITY COUNCIL

April 11, 2023

4:00 pm: Study Session

5:30 pm: Regular Scheduled Meeting

Significant items on the Agenda – such as Public Hearings, Ordinances and Resolutions – will have an explanatory Agenda Item Sheet (AIS)

A yellow AIS cover page indicates an action item.

A blue AIS cover page indicates an informational/non-action item.



Selah City Council
Meeting Date: April 11, 2023
4:00pm: Study Session
5:30 pm: Regular Meeting

Mayor:	Sherry Raymond
Mayor Pro Tempore & Councilmember:	Russell Carlson
Councilmembers:	Kevin Wickenhagen Jared Iverson Elizabeth Marquis Clifford Peterson Roger Bell Michael Costello
City Administrator:	Joe Henne
City Attorney:	Rob Case
Clerk/Treasurer:	Dale Novobielski

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

AGENDA

- 1) **Call to Order – Mayor Raymond**
- 2) **Roll Call**
- 3) **Registering in record of councilmember absence(s) as excused absence(s), per SMC 1.06.070**
- 4) **Pledge of Allegiance**
- 5) **Invocation with Jason Williams from Harvest Church, Selah**
- 6) **Announcement of changes, if any, from previously-published Agenda**
- 7) **Getting to know local businesses, agencies and/or people (up to 5 minutes total)**
- 8) **Comments from the public (up to 30 minutes total)**

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 pertaining to City business and official actions are the most valued, but comments pertaining to City officials' ability to fulfill their job duties due to events, actions, or activities that occurred outside the scope of their duties as a City official may also be offered. Constructive criticism of City officials is allowed including constructive criticism specifically mentioning City officials or employees by name as to official actions, but defamation, personal attacks and impertinent assertions are not allowed.

Commenters are limited to one comment per meeting and each comment is subject to a duration limit. City staff may disallow or modify any received written comment that exceeds its duration limit or that is deemed inappropriate, and the Mayor or Presiding Officer may turn off the podium microphone or otherwise silence any in-person comment that exceeds its duration limit or is deemed inappropriate.

These standards are subject to revision and will be updated whenever necessary in order to comply with constitutional requirements.

A. Pre-arranged oral comments (up to 5 minutes each) - None

B. Reading of received written comments (up to 2 minutes each) - None

C. Oral comments by people in attendance (up to 2 minutes each)

9) **Proclamations/announcements**

10) **Consent Agenda**

Consent Agenda items are listed with an asterisk (*). Those items are considered routine and will be addressed via a joint motion, without any discussion or debate. However, upon the request of any Councilmember an item will be removed from the Consent Agenda, will be addressed separately, and will be subject to discussion and debate.

- | | | |
|----|---------------------|--|
| A. | Treesa
Morales | * Approval of Minutes from March 28, 2023 Council Meeting |
| B. | Dale
Novobielski | * Approval of Claims & Payroll |
| C. | Rocky
Wallace | Resolution 13-B. Resolution Authorizing the Mayor to Sign a Washington State Department of Transportation Local Agency Agreement Supplement No. 4, to Deobligate Half of the Excess Construction Funding for the Street Portion of the City's Valleyview Avenue, South Third Street and Southern Avenue Improvements Project |
| D. | Rocky
Wallace | Resolution 13-C. Resolution Authorizing the Mayor to Sign the United States Department of Agriculture Rural Development RUS BULLETIN 1780-27 LOAN RESOLUTION, Relating to the City's Wastewater Collection System Improvements Project |

11) **Public Hearings** - None

12) **General Business**

A. New Business

- i. Chief James Lange
RE: Hiring of Four (4) Probationary Firefighters in Current Year 2023.

B. Old Business - None

13) **Resolutions**

- | | | |
|----|------------------|--|
| A. | Rocky
Wallace | Resolution Authorizing the Mayor to Sign a Contract with Cascade Sign and Fabrication, Related to the City's Welcome to Selah Sign Project |
| B. | Rocky
Wallace | *On Consent* Resolution Authorizing the Mayor to Sign a Washington State Department of Transportation Local Agency Agreement Supplement No. 4, to Deobligate Half of the Excess Construction Funding for the Street Portion of the City's Valleyview Avenue, South Third Street and Southern Avenue Improvements Project |

- C. Rocky Wallace *On Consent* Resolution Authorizing the Mayor to Sign the United States Department of Agriculture Rural Development RUS BULLETIN 1780-27 LOAN RESOLUTION, Relating to the City's Wastewater Collection System Improvements Project
- D. Chief Dan Christman Resolution Authorizing the Mayor to Sign an Agreement with Flock Safety for acquisition, installation, and implementation of Flock Automated License Plate Reader (ALPR) Cameras inside the City of Selah
- E. Rob Case Resolution Directing the City Administrator to Issue a Two-Page Letter Jointly to the Law Firm of Brumback & Ottem and Attorney William Schuler, Notifying Both that their Engagement as Public Defender(s) as to New Cases is Terminated Effective June 30, 2023
- F. Rob Case Resolution Authorizing the Mayor to Sign a Fourteen-Page Contract for Indigent Defense Services with Attorney Daniel B. Polage
- G. Rob Case Resolution Authorizing the Mayor to Sign a Four-Page Amendment to Professional Services Contract Prosecution with the Entity of Margita A. Dornay Attorney at Law, PLLC

14) **Ordinances**

- A. Rocky Wallace ORDINANCE of the City of Selah, Washington, relating to the sewer system of the City; providing for the issuance of a taxable sewer revenue bond of the City in the principal amount of \$2,111,000, for the purpose of providing funds to pay costs of the acquisition, construction and installation of improvements to the City's sewer system; fixing the terms and covenants of the bond; creating, adopting and continuing certain funds and accounts; providing for the issuance of additional bonds; approving the sale and providing for the delivery of the bond to the United States of America, acting through the United States Department of Agriculture; and providing for related matters.

15) **Reports/Announcements**

- A. Departments
- B. Councilmembers, personally and on behalf of committees and boards
- C. City Attorney
- D. City Administrator
- E. Mayor or Presiding Officer, personally and on behalf of committees and boards

16) **Executive Session(s) - None**

17) **Adjournment**

****Next Regular Meeting: April 25, 2023**



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 4/11/2023

Agenda Number: **10-A**

Action Item

Title: Approval of Minutes, March 28, 2023 Regular Council Meeting

From: Treesa Morales, Executive Assistant

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
March 28, 2023
Regular Meeting

1) Call to Order: Mayor Raymond called the meeting to order at 5:30 pm.

2) Roll Call

A. Members Present: Elizabeth Marquis, Roger Bell, Michael Costello, Jared Iverson, Clifford Peterson

B. Staff Present: Joe Henne, City Administrator; Rob Case, City Attorney; Dan Christman, Chief of Police; James Lange, Fire Chief; Ty Jones, Public Works Supervisor; Dale Novobielski, City Clerk/Treasurer; Jeff Peters, Community Development Supervisor; Zack Schab, Recreation Director; Matthew Taylor, Public Works Engineer Technician, and Treesa Morales, Public Records Manager.

3) Registering in record of Councilmember absence(s) as excused absence(s), per SMC 1.06.070

Councilmember Bell moved to approve the absence for Councilmember Carlson and Councilmember Wickenhagen. Councilmember Costello seconded. Mayor Raymond requested all Councilmembers to signify their approval with an "Aye." All council responded. No "Nay" votes. Councilmember absences were approved.

4) Pledge of Allegiance

5) Invocation – Provided by Chief Christman

6) Announcement of changes, if any, from previously-published agenda

Mayor Raymond notified council that Agenda item 13-C was being removed from the Agenda and would be discussed at a later date.

7) Getting to know local businesses, agencies and/or people

Guest Amy McCargar-Davis and Ingrid Mungia from Multicare Yakima Memorial presented to Council and discussed wanting to partner with the City in the future.

8) Comments from the Public: None

9) Proclamations/Announcements: None

10) Consent Agenda (all items listed with an asterisk (*) are considered part of the consent agenda and are enacted in one motion).

Councilmember Bell moved to add Agenda items 13-A and 13-D to the Consent Agenda. Councilmember Peterson seconded. Mayor Raymond requested all Councilmembers to signify their approval with an "Aye." All council responded. No "Nay" votes. Added items were approved.

Councilmember Bell moved to approve the Consent Agenda as amended. Councilmember Costello seconded. Roll was called: Councilmember Marquis – yes; Councilmember Bell – yes; Councilmember Costello – yes; Councilmember Carlson – yes; Councilmember Iverson – yes; Councilmember Wickenhagen – yes; Councilmember Peterson – yes. By voice vote, Consent Agenda is approved.

Executive Secretary, Treesa Morales, read the Consent Agenda:

- A. Treesa Morales Approval of Minutes: -- Council Meeting
- B. Dale Novobielski Approval of Claims and Payroll:
Payroll Checks No. 85474-85489 for a total of
\$350,689.02
Claim Checks No. 179647-179714 for a total of
\$134,560.03
- C. Rocky Wallace Resolution #13-A. Resolution Authorizing the Mayor to
Sign a Washington State Department of Transportation
Construction Agreement GCB 3820, Related to the
City's Valleyview Avenue, South Third Street and
Southern Avenue Improvements Project
- D. Rocky Wallace Resolution #13-D. Resolution Declaring the
Wastewater Collection Systems Improvements Project
as Substantially Complete

11) Public Hearings: None

12) General Business

- A. New Business
- B. Old Business

13) Resolutions

- A. *Moved to Consent*. Resolution Authorizing the Mayor to Sign a Washington State Department of Transportation Construction Agreement GCB 3820, Related to the City's Valleyview Avenue, South Third Street and Southern Avenue Improvements Project

Resolution was passed upon approval of the Consent Agenda.

B. Resolution Adopting the City's ADA Transition Plan.

Introduced by Mayor Raymond. Presented by Matthew Taylor, Public Works Engineer Technician. After presentation,

Councilmember Costello moved to approve the Resolution as presented. Councilmember Peterson seconded. Mayor Raymond restated the motion and asked Council for any discussion.

Councilmember Costello asked Mr. Taylor when work was expected to start on the items outlined in the ADA Transition Plan. Mr. Taylor provided information and referenced Appendix B in the plan.

Seeing no further discussion Mayor Raymond restated the original motion and requested Roll Call. Roll was called: Councilmember Marquis – yes; Councilmember Bell – yes; Councilmember Costello – yes; Councilmember Carlson – absent; Councilmember Iverson – yes; Councilmember Wickenhagen – absent; Councilmember Peterson – yes. By voice vote, Resolution Adopting the City's ADA Transition Plan was approved.

C. *REMOVED* Resolution Authorizing the Mayor to Sign a Contract with Cascade Sign and Fabrication, Related to the City's Welcome to Selah Sign Project

Resolution 13-C was removed from the agenda as mentioned in Agenda item #6.

D. *Moved to Consent* Resolution Declaring the Wastewater Collection Systems Improvements Project as Substantially Complete

Resolution was passed upon approval of the Consent Agenda.

E. Resolution Authorizing the Mayor to Sign a Seventeen Page Easement Agreement with Frontier Country Investments, LLC

Introduced by Mayor Raymond. Presented by Rob Case, City Attorney. After presentation,

Councilmember Peterson moved to approve the resolution as presented. Councilmember Bell seconded. Mayor Raymond restated the motion and asked Council for any discussion.

Councilmember Iverson asked if Frontier Country Investments has a deadline or obligation if they don't fulfill the agreement on their end. Mr. Case explained that, while he has not seen documents from the Department of Ecology stating which trees are required to be installed, recent contact with the brewery has shown that they plan to install the shade trees once the weather improves and is warm enough to do so. Mr. Case explained the law states it must be completed within a "reasonable deadline" and the City is confident they will follow through.

Councilmember Iverson asked if there was any reason the City would need to use the easement along the ditch. Mr. Case responded that there might be times when City staff might need to inspect the ditch, but any intended use by the brewery would not interfere with City work.

Councilmember Bell expressed concern over alcohol being served close to water and wondered if it was something the City was worried about as well. Mr. Case explained there would be fencing up to protect visitors to the brewery from wandering to the ditch, and the portion of the brewery land that they are mostly likely to be is not right next to the ditch or water.

Jeff Peters moved to the podium to explain that this agreement comes out of the right-of-way agreement between the brewery and the City. Mr. Peters explained that normally, a land owner would provide compensation, but in this case, the City needed shade trees along the ditch as required by the Department of Ecology, so the City Administrator and Public Works Director worked with Outskirts Brewery to dedicate equal amounts of property and the requirement that the Brewery put in trees, and in return the City would grant the right-of-way vacation and not charge them for the City.

Seeing no further discussion, Mayor Raymond restated the original motion and asked for roll call. Roll was called: Councilmember Marquis – yes; Councilmember Bell – yes; Councilmember Costello – yes; Councilmember Carlson – absent; Councilmember Iverson – yes; Councilmember Wickenhagen – absent; Councilmember Peterson – yes. By voice vote, Resolution Authorizing the Mayor to Sign a Seventeen Page Easement Agreement with Frontier Country Investments, LLC, was approved.

14) Ordinances - None

15) Reports/Announcements

A. Departments

Fire: Chief Lange gave a report for the department

Police: Chief Christman gave a report for the department

Parks and Recreation: Zack Schab gave a report for the department

Planning Department: Jeff Peters gave a report for the department

Public Works: Ty Jones gave a report for the department. Mayor Raymond asked Mr. Jones to explain the plan for painting as normally the City paints streets before Selah Community Days, but that is not the plan this year. Mr. Jones explains why Public Works plans to postpone painting until the construction projects are completed this summer. Mr. Henne asked if Public Works has talked to the County to postpone their painting also. Mr. Jones said they made the request, but haven't heard back yet.

B. Councilmembers

Councilmember Bell reported that the recent rummage sale conducted by the SDA was a success. And gave feedback from his recent meeting with representatives from Multicare Yakima Memorial Hospital.

Councilmember Iverson gave update on the school board meeting he attended.

Councilmember Peterson gave information on a YVCOG meeting he attended.

- C. City Attorney – No public report
- D. City Administrator – mentioned to council that the April 11 study session will include the following topics: improvements at Carlon park, discussion
- E. Mayor Raymond – No public report

R. Executive Session **None**

S. Adjournment

Councilmember Iverson moved to adjourn the meeting. Councilmember Costello Seconded. Mayor Raymond asked for all those in favor, say "Aye." By voice vote, motion was unanimous.

The meeting adjourned at 6:16 pm.


Sherry Raymond, Mayor


Roger Bell, Councilmember

ABESENT

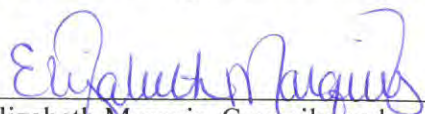
Russell Carlson, Councilmember



Jared Iverson, Councilmember

ABESENT

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: 4/11/2023

Agenda Number: 10-B

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: 4/11/2023

Agenda Number: **12-A-i**

Informational Item

Subject: Hiring of Four (4) Probationary Firefighters in Current Year 2023

From: James Lange, Fire Chief

Board/Commission Prior Action: Yakima County Fire Protection District #2 (YCFD2) Commissioners have previously approved these hires.

Prior Action by City Council: During the recent 2023 City Council Retreat, the City Council and Mayor blessed the Fire Department's intention to transition to shift work by hiring four (4) new Probationary Firefighters.

Fiscal Impact: \$177,390.00 during the year of 2023, for 4-6 months of wages and benefits (an adjustment to the 2023 budget will be required). Future years will be substantially more, as the employees are contemplated to work the entirety of each year.

Funding Source: Fund 150, Fire Equipment Reserve

Background/Findings/Facts: This is an Informational Item, which will be followed at a later date by a budget adjustment. During the recent 2023 City Council Retreat, the City Council and Mayor considered the Fire Department's plan to transition to a shift-based schedule – and to hire four (4) new Probationary Firefighters to enable such transition – in order to enable response services to be provided on a 24/7 basis going forward.

The City Attorney agrees that the City Council does not need to take any action (today) with regard to the new Probationary Firefighters because authority to hire Fire Department personnel rests with the Fire Department's Joint Board (which is comprised of the Mayor and Commissioner-Chair). However, because a future budget adjustment will be necessary in order to allocate sufficient funds for the new employees' wages and benefits – and the City Council has an oversight role as to the Fire Department's budget – this Informational Item is being submitted so that the City Council will have a proper frame of reference when the future budget adjustment is presented.

The Fire Department initially planned to transition to shift work and to budget for additional employees as part of the 2024 budget year. But due to present call volumes and lack of volunteer response/participation, Chief Lange assessed – and the Commissioners agreed – that the transition should occur during 2023 if possible. Accordingly, the topic was addressed during the 2023 City Council Retreat, was blessed by the City Council and Mayor, and is now summarized via the instant Informational Item – which, again, will be followed at a later date by a budget adjustment.

The above-stated fiscal impact should be reduced, in part, by resultant "savings" that will occur in the form of lessor volunteer stipends being paid.

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:**



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 4/11/2023

Agenda Number: **13-A**

Action Item

Title: Resolution Authorizing the Mayor to Sign a Contract with Cascade Sign and Fabrication, Related to the City's Welcome to Selah Sign Project

From: Rocky D. Wallace, Public Works Director

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: \$39,008.58 (but the City's share will be less than the total amount, because various other funding has been secured and will also contribute funds)

Funding Source: 111 Streets, and 001 General Fund

Background/Findings/Facts: This pertains to the City's Welcome to Selah Sign Project. The City solicited competitive sealed bids from five contractors via the MRSC Small Works Roster. The one received bid was opened and evaluated at City Hall at approximately 10:30 a.m., Tuesday, March 21, 2023. It was for the total amount of \$39,008.58, by Cascade Sign and Fabrication, of Yakima, Washington.

In the 2023 adopted budget (Ordinance 2184), there is \$15,000.00 budgeted for First Street Beautification included within the 111 Streets fund. Additionally, Public Works has received Lodging Tax Advisory Committee (LTAC) funding in the amount of \$12,500.00 for this Project. Moreover, Public Works is submitting a grant application to the Selah Downtown Association (SDA) in the amount of \$5,000.00 for landscaping for this project, which City staff is cautiously optimistic will prove successful. Public Works is requesting to cover the remainder of this Project's cost – approximately \$6,500.00 – out of the City's 001 General fund.

Public Works recommends that the City award the project to Cascade Sign and Fabrication. A "Contract" measuring six total pages (which pages are numbered 10-22 through 15-22, because they will be part of a larger total package of contract documents that will include the specifications, bid material, and other items) has been prepared. A copy of such Contract is appended to this AIS. Its terms are acceptable to Public Works, and Public works requests that the City Council authorize the Mayor – via approval of the attached proposed Resolution – to sign it.

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:**

2/28/2023 Request for proposals sent via email to five contractors on the Municipal Research and Services Center of Washington (MRSC) Small Works Roster

RESOLUTION NO. 2947

RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT WITH CASCADE SIGN AND FABRICATION, RELATED TO THE CITY'S WELCOME TO SELAH SIGN PROJECT

WHEREAS, the City desires to construct a new Welcome to Selah sign; and

WHEREAS, the City solicited competitive sealed bids from interested contractors for such construction work, received only one bid, and that bid was from Cascade Sign and Fabrication, of Yakima, Washington, for the total cost of \$39,008.58; and

WHEREAS, the City desires to award this scope of work to Cascade Sign and Fabrication; and

WHEREAS, a written "Contract" measuring six total pages (which pages are numbered 10-22 through 15-22, because they will be part of a larger total package of contract documents that will include the specifications, bid material, and other items) has been prepared, and 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 the six-page Contract with Cascade Sign and Fabrication in the form appended hereto, and, moreover, if an award letter and/or any other documentation proves necessary to effectuate awarding this scope of work to Cascade Sign and Fabrication, the Mayor and/or Public Works Director (Rocky D. Wallace) are authorized to sign such on the City's behalf.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 11th day of April, 2023.

Sherry Raymond
Sherry Raymond, Mayor

ATTEST:

Dale E. Novobielski
Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Rob Case
Rob Case, City Attorney

From: [Wallace, Rocky](#)
To: ["nicol@baldwinsigns.com"](mailto:nicol@baldwinsigns.com)
Cc: [Taylor, Matthew](#)
Subject: Welcome to Selah Sign RFP
Date: Tuesday, February 28, 2023 9:10:26 AM
Attachments: [2-28-23 - Welcome to Selah RFP - Copy.pdf](#)
[image001.png](#)

Good Morning,

The City of Selah is soliciting bids for our "Welcome to Selah Sign Project", please see the attached RFP.

Thank you,



From: [Wallace, Rocky](#)
To: ["Jordanw@division10sign.com"](mailto:Jordanw@division10sign.com)
Cc: [Taylor, Matthew](#)
Subject: Welcome to Selah Sign RFP
Date: Tuesday, February 28, 2023 9:16:11 AM
Attachments: [2-28-23 - Welcome to Selah RFP - Copy.pdf](#)
[image001.png](#)

Good Morning,

The City of Selah is soliciting bids for our "Welcome to Selah Sign Project", please see the attached RFP.

Thank you,



From: [Wallace, Rocky](#)
To: ["andrew.craigie@fastsigns.com"](mailto:andrew.craigie@fastsigns.com)
Cc: [Taylor, Matthew](#)
Subject: Welcome to Selah Sign RFP
Date: Tuesday, February 28, 2023 9:12:27 AM
Attachments: [2-28-23 - Welcome to Selah RFP - Copy.pdf](#)
[image001.png](#)

Good Morning,

The City of Selah is soliciting bids for our "Welcome to Selah Sign Project", please see the attached RFP.

Thank you,



From: [Wallace, Rocky](#)
To: ["marchumphrey@comcast.net"](mailto:marchumphrey@comcast.net)
Cc: [Taylor, Matthew](#)
Subject: Welcome to Selah Sign RFP
Date: Tuesday, February 28, 2023 9:23:09 AM
Attachments: [2-28-23 - Welcome to Selah RFP - Copy.pdf](#)
[image001.png](#)

Good Morning,

The City of Selah is soliciting bids for our "Welcome to Selah Sign Project", please see the attached RFP.

Thank you,



From: [Wallace, Rocky](#)
To: ["ioefischer.cascade@gmail.com"](#)
Cc: [Taylor, Matthew](#)
Subject: Welcome to Selah Sign RFP
Date: Tuesday, February 28, 2023 9:08:22 AM
Attachments: [image001.png](#)
[2-28-23 - Welcome to Selah RFP - Copy.pdf](#)

Good Morning,

The City of Selah is soliciting bids for our "Welcome to Selah Sign Project", please see the attached RFP.

Thank you,

Rocky Wallace

Public Works Director
City of Selah
222 S Rushmore Rd.
509-698-7365





PROPOSAL

108 West Mead Ave, Yakima, WA 98902
Phone: 509-972-8099 • Fax: 509-972-8332
www.cascade-sign.com

City of Selah (Welcome to Selah Monument)

3-20-23

Billing Address:

Client: Rocky Wallace
115 W. Naches Ave
Selah, WA
(509) 698-7365

Job Location:

703 Test Drive Lane

Item 1 - Manufacture and install signage:

- A. 3" steel square tube horizontal supports with welded steel plates for attachment to basalt columns. Duranodic bronze enamel finish.
- B. .250 solid aluminum sign platform with beige textured enamel finish (front and back).
- C. .250 aluminum "apple" components with brushed silver and clear-coat finish. Stud-mount flush to surface.
- D. .250 aluminum WELCOME TO letters with black enamel finish. Stud-mount flush to surface.
- E. .250 steel SELAH letters. Flame-burnished treatment and clear-coat finish. Stud-mounted flush to surface.

\$7,448.00

Item 2 - Landscaping

- A. Two (2) 18" diameter X 8' basalt columns set approx 2' below grade for approx 6' finished height.
- B. Trench for power to location. Back-fill trench.
- C. Trench and install adequate water/irrigation for new plantings.
- D. Install five (5) boulders around sign area to match what is being installed around brewery (3' to 4' basalt).
- E. Install plant material to match what is being installed along frontage and around brewery.
- F. Install commercial-grade weed fabric.
- G. Install 3" layer of 1.5" basalt rock as finished product over fabric.

\$18,125.00

Item 3 - Power

- A. WA state permit and electrical inspection / call for locate for trench / coordinate with Pacific Power.
- B. Install grounding for new service / install conduit and service for power to the sign.
- C. Install pole to mount service / install 100-amp commercial feed through meter / install 100-amp panel for feeder wires for lighting and other electrical needs.
- E. Trench to front of light and install conduit for lights.
- F. Install LED yard light fixtures and wiring for lights in front of sign.

\$10,446.00

minor changes

\$5,000.00

sales tax (8.3%)

\$3,404.58

- Total price excludes any required costs for permitting and permit acquisition (to be added to final statement)
- **N/A** down payment is required
- Balance is due at time of installation
- Power to be delivered from service panel to sign location by others
- Additional 4% charge is required for Visa or Mastercard payments

Total Price:

\$44,423.58

We look forward to working with you! Sincerely,

Jason Jones, Cascade Sign & Fabrication

This Sales Agreement is made between Cascade Sign & Fabrication (Seller) and the undersigned (Purchaser) for the collective products and/or labor (Signage) outlined in this contract. The Total Price amount shown excludes sales tax, any required permit costs, engineering costs, or additional insured (if applicable), which will be billed as extra. Any deviation(s) from the above work description involving extra cost of material(s) and/or labor will only be executed upon written orders for the same, and will become an additional charge over and above the proposed amount. Additional agreements must be made in writing. The Purchaser is responsible for delivering power to the proposed sign location as determined by Seller. Fifty percent (50%) deposit is due prior to fabrication. Payment of the full remaining balance is due prior to installation of Signage, unless Seller gives written approval for Purchaser to be billed, in which case the balance shall be due no later than 30 days from date of invoice. There shall be assessed and immediately due a monthly charge equal to 1.5% per month or 18% per annum on all payments not fully made on their due date. Purchaser shall be liable to Seller for all costs of collection incurred by Seller as a result of Purchaser's breach(s) hereof to include but to be limited to Seller's reasonable attorney's fees and expenses of repossession and sale. Venue for any suit initiated to enforce the terms of this Agreement shall lay in Yakima County, WA. The Signage described herein shall remain personal property of Seller, irrespective of any physical attachment of the Display(s) to real property and the Seller may remove the same, upon any breach of this agreement, from any premises where the same may be located or which the same may be attached. Until the Display(s) is fully paid for, the Purchaser shall neither convey nor encumber without the prior written approval of the Seller.

Authorized Signature (Purchaser)

Date 4-12-23



108 West Mead Ave, Yakima, WA 98902
Phone: 509-972-8099 • Fax: 509-972-8332
www.cascade-sign.com

To Whom It may Concern,

The "minor changes" line item on our proposal for the "Welcome To Selah" Sign project is a forced account item that will only be charged as needed and agreed upon by both parties to the contract. This is not an agreement for a blanket \$5,000 charge added to the project total.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Jones", is written over the printed name.

Jason Jones
Cascade Sign and Fabrication
108 W. Mead Ave.
Yakima, WA 98902

CITY OF SELAH

Solicitation for Sealed Bids

Project: “Welcome to Selah” Sign

(including electrical and related landscaping)



Bidder Information

The City of Selah is soliciting sealed bids for the supply and installation of a new, specifically-designed "Welcome to Selah" sign (which includes electrical work and also related landscaping).

All work must be completed in accordance with the "2023 Standard Specifications for Road, Bridge and Municipal Construction" prepared by the Washington State Department of Transportation/American Public Works Association (WSDOT/APWA), and also the City's standard contract for limited public works projects (a copy of which is set forth in Appendix A hereto) and the project's specific Scope of Work description (which begins on page 7 hereof).

The chosen Contractor will have a maximum period of thirty (30) working days to complete the work. Liquidated damages of five hundred dollars (\$500.00) will apply for each day or partial day that any aspect of the work remains uncompleted after expiration of such thirty-day period. The City's issuance of a "Notice to Proceed" will mark the start of the thirty-day period.

Each bidding contractor is responsible for inspecting the site, reading and being thoroughly familiar with the project requirements, and preparing its own bid. Failure or omission of any bidding contractor to do any of the foregoing shall in no way relieve that contractor from fulfilling all obligations with respect to the bid submitted if that contractor is the ultimately-chosen Contractor.

Attention is called to the fact that not less than the prevailing wage rates determined by the State of Washington must be paid on this project, in accordance with RCW Chapter 39.12 and WAC Chapter 296-127. The chosen Contractor shall pay the wage rates in effect for Yakima County as of the bid submission deadline of 10:00 a.m., on March 21, 2023. Current wage rates, which could change by such bid submission deadline, can be viewed online at the website address of : <https://fortress.wa.gov/lni/wagelookup/prvwagelookup.aspx>. Upon request, the City will mail a paper printout from such website address to any prospective bidder. Each bidding contractor must submit, as part of its bid, a completed "Certification of Compliance with Wage Payment Statutes" (as set forth on page 6 hereof). The chosen Contractor shall be responsible for submitting a "Statement of Intent" to the State Department of Labor & Industries (L&I) prior to commencing work, and then an "Affidavit of Wages Paid" to L&I after the City accepts the completed work.

The City will only consider bids from responsible contractors. A bidding contractor will be deemed not-responsible if it does not meet the mandatory bidder responsibility criteria set forth in RCW 39.04.350.

Questions regarding the project may be directed to:

Rocky Wallace, City of Selah: (509) 698-7365
rocky.wallace@selahwa.gov

Bid Submission Process

To be considered, a bid must be actually delivered to and received by the City of Selah in physical paper format at 115 W. Naches Avenue, Selah, WA 98942 no later than 10:00 a.m. on March 21, 2023, and then publicly opened and read aloud. Each bid must be submitted in a sealed envelope, must be plainly marked on the outside as a "Bid for Welcome to Selah Sign Project", and must be plainly marked on the outside the bidder's name, address, and license number(s) if applicable. The price, cost or amount(s) of a submitted bid must not be indicated on the outside of the envelope.

A bid must include a completed "Unit Price Bid Proposal" form (which is set forth at page 4 hereof), a "Bid Proposal Signature Page" (which is set forth at page 5 hereof), and "Certification of Compliance with Wage Payment Statutes" form (which is set forth at page 6 hereof).

A conditioned or qualified bid will not be considered.

The City of Selah reserves the right to reject any and all bids and to waive technicalities or irregularities, and, further, after careful consideration of all bids and factors involved, to make an award that the City determines will best serve the interests of the City.

UNIT PRICE BID PROPOSAL

NOTE: Unit prices for all items, all extensions, and the total amount of the bid must be shown. Any changes/corrections to the bid must be initialed by the signer of the bid.

CITY OF SELAH
WELCOME TO SELAH SIGN PROJECT

ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY		UNIT PRICE DOLLARS- CTS		AMOUNT DOLLARS- CTS
1	Mobilization	LS	1	X	---	=	0
2	Welcome to Selah Sign, Complete	LS	1	X	---	=	7,448.00
3	Electrical, Complete	LS	1	X	---	=	10,446.00
4	Landscaping, Complete	LS	1				18,125.00
5	Minor Changes	FA	---	X	\$5,000.00	=	\$5,000.00
BID SUBTOTAL							41,019.00
8.3% STATE SALES TAX							3,404.58
BID TOTAL							44,423.58

BID PROPOSAL SIGNATURE PAGE

CITY OF SELAH
WELCOME TO SELAH SIGN PROJECT

Cascade Sign + Fabrication
BIDDER (CONTRACTOR)

3/20, 2023
DATE

BY [Signature]
AUTHORIZED AGENT'S SIGNATURE

GM
TITLE

SCOTT ROBERTS

(Please print or type name)

Mailing Address:

108 W. Mead Ave.

Phone: (509) 972-8099

Yakima, WA 98902

E-mail address: jason.jones.cascade@gmail.com

CONTRACTOR LICENSE NUMBER CASCADE 892 GQ

CONTRACTOR DUNS NUMBER _____

CONTRACTOR UBI NUMBER 603 076 030

CONTRACTOR FEDERAL TAX I.D. NUMBER 27-4503905

CONTRACTOR EMPLOYMENT SECURITY DEPARTMENT NUMBER 000-4273-00-4

CONTRACTOR INDUSTRIAL INSURANCE ACCOUNT NUMBER 973 188-02

The names of the principal officers of the corporation submitting this Proposal, or of the partnership, or of all persons interested in this Proposal as principals are as follows:

Fred and Lynn Means

PROJECT MANAGER Jason Jones

CELL PHONE: (509) 945-1550

NOTES:

- (1) For any business entity (e.g., corporation, LLC, partnership, joint venture, etc.), use the name under which business will be transacted. Also, the bid must be signed by a duly-authorized agent.
- (2) By submitting a bid, the bidder thereby acknowledges its receipt and review of all pages of this "Solicitation for Sealed Bids" package.

CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES


CITY OF SELAH
WELCOME TO SELAH SIGN PROJECT

Failure to return this certification as part of the Bid Proposal package will render a bid nonresponsive and ineligible for the award.

I hereby certify, under penalty of perjury under the laws of the State of Washington, that (1) I am a duly-authorized agent of the Contractor/Bidder recited below and (2) on behalf of such Contractor/Bidder and to the best of my knowledge and belief, the Contractor/Bidder has NOT been determined by a final and binding "Citation and Notice of Assessment" issued by the Washington State Department of Labor and Industries (L&I), an equivalent action by L&I and/or through a civil court judgment, to have committed any "willful" violation, as defined in RCW 49.48.082, of any wage payment statute including but not limited to any provision of RCW Chapters 49.46, 49.48 and/or 49.52, within the three (3) year period immediately preceding the date that this "Solicitation for Sealed Bids" package was publicly disseminated by the City of Selah.

DULY-AUTHORIZED AGENT OF CONTRACTOR/BIDDER:

Bidder Name: F&L Means, Inc. DBA Cascade Sign + Fabrication
Name of Contractor/Bidder – Print full legal entity name of firm

 3/20/2023
Signature of Authorized Agent Date

SCOTT ROBERTS YAKIMA, WA
Print Name and Title Location or Place Executed (City, State)

Scope of Work

Supply and install new "Welcome to Selah Sign", including associated electrical and landscaping work.

Technical Specifications

Signage

- A. General: All signage shall conform construction details described in the Exhibits.
 - 1. The sign shall be single-face non-illuminated monument sign (but external lights shall be required, as further explained under "Electrical" on this page).
 - 2. The sign shall match design, height and width shown in Exhibit B.
 - 3. The sign shall be secured on two (2) three-inch (3") steel square tube horizontal supports, and shall be painted black.
 - 4. The supports shall be secured to basalt columns as shown in Exhibit B and further explained under "Landscaping" on this page.

Electrical

- A. General: All electrical work shall be coordinated with and approved by Pacific Power. The electrician is responsible for permits, setting service, pulling wire, installing conduit and inspection.
 - 1. A licensed electrician shall set a 100-amp electrical service to provide power to the project location. A licensed electrician shall trench, place conduit, pull wires, and set two (2) lights. After the wiring and conduit is in place, the trench shall be backfilled. All electrical work must meet L&I standards.
 - 2. Two (2) external lights shall be installed to illuminate the face of the sign. The lights shall be weather-proof LEDs, shall be installed near ground level, and shall be connected to a day and night sensor.

Landscaping

- A. General: All landscaping shall conform with the images and details listed in the Exhibits.
 - 1. The landscaper shall assist with the installation of the sign as needed.
 - 2. Two (2) roughly eighteen inch (18") diameter by eight foot (8') tall basalt columns shall be, with one (1) on each side of the sign's intended location. The columns shall be set at a specified, certain distance apart, so as to accommodate the sign.
 - 3. The basalt columns shall be set in three inch (3") diameter by three foot (3') deep concrete footings. The landscaper shall be responsible for excavation and pouring of the concrete footings. The basalt columns shall be sunk two foot (2') deep into the concrete footings, making their final exposed height six foot (6') tall from ground level.

4. Install commercial grade weed barrier fabric under all landscaped areas (roughly 225 sq. ft). The fabric is to be 4.8-ounce woven fabric.
5. Install a three inch (3") layer of one-and-one-half inch (1.5") basalt rock as the finished product over the fabric. Approximately two cubic yards (2 CY) of one-and-one-half inch (1.5-inch) basalt rock is estimated to be necessary.
6. A trench, approximately one hundred twenty feet (120') in length shall run water from the City's meter box in the utility easement to the project location. A three-quarter inch (¾") PEX line with tracer wire will be installed to the City's meter box/meter. A double check valve shall be provided and installed by contractor. City will provide a Hunter NODE-BT-100 Valve (a batter-operated and Bluetooth enabled controller/node), which will be installed by contractor. Surface drip will be installed below fabric and one-half inch (½") poly tubing with an emitter shall be installed for individual plants.
7. All new landscaping shall match the surrounding landscaping at or near 707 Test Drive Lane as closely as possible. This includes trees, rocks, grass, flowers and any other added landscaping. Refer to photographs Exhibit C and also rely upon your own visual inspection of the area.
8. Five (5) basalt boulders shall be set around the sign area, matching the style of existing landscaping at or near 707 Test Drive Lane. Boulders shall be between three and four foot (3-4') in size.
9. Install plant life matching the style of existing landscaping at or near 707 Test Drive Lane. A list of the plant life to be planted is as follows:
 - One (1) Colorado Blue Spruce, five to six foot (5-6') tall
 - One (1) Acer Palmatum, five to six foot (5-6') tall
 - One (1) Chanticleer Pear, with one-and-one-half inch (1.5") caliper
 - Seven (7) Karl Foerster Grass, two-gallon size (2 gal)
 - Three (3) Dark Green Yew, two-gallon size (2 gal)
 - Five (five) Pinky Winky Hydrangea, two-gallon size (2 gal)
 - Two (2) Stella D'Oro Daylily, two-gallon size (2 gal)The plant life should keep the same density and look as the existing landscaping at or near 707 Test Drive Lane.

EXHIBIT A

CONTRACT DOCUMENTS

LIMITED SMALL PROJECT PUBLIC WORKS CONTRACT (Less than \$50,000)

This Limited Small Project Public Works Contract ("Contract") is made by and between the City of Selah, a Washington municipal corporation ("City" or "Owner") and _____, a _____ type of entity ("Contractor") (individually a "Party" and collectively the "Parties") for the purposes set forth herein.

In consideration of the terms and conditions contained herein and attached and made a part of this Contract, including Contractor's insurance obligations and Contractor's hold harmless, indemnification and defense obligations, the Parties agree as follows:

1. Project and Potential Alterations Thereto. Contractor shall do all work and furnish all tools, supplies, materials, equipment, personnel and labor for City's small project public works project known as the Welcome to Selah Sign Project ("Project") in accordance with and as described in the "Solicitation for Sealed Bids" package including its "Scope of Work" description and its Exhibits, and also including addenda N/A appended to this Contract, each and all of which are by this reference incorporated herein and made a part of this Contract; and, further, Contractor shall also do all work and furnish all tools, materials, equipment, personnel and labor for any alterations and/or additions to the Project, or any part or portion thereof, that City may subsequently request or require (which potential alterations and/or additions may require corresponding upward or downward adjustment(s) to the overall Project cost and price; see paragraph 11 below).

2. City's Engagement of Contractor. City promises and agrees to engage, and does hereby engage, Contractor complete the Project, and promises and agrees to pay Contractor for the same.

3. Contractor's Acceptance of Engagement. Contractor promises and agrees to complete the Project, and hereby accepts City's engagement of Contractor.

4. No City Liability. Contractor promises and agrees that no liability shall attach to City by reason of entering into this Contract and/or by reason of performance of the Project except as expressly stated in this Contract.

5. Completion Deadline/Liquidated Damages. The Project must be commenced no later than ten (10) calendar days from the date that City issues a "Notice to Proceed" to Contractor and must be completed no later than thirty (30) working days of the date of such Notice to Proceed ("Completion Deadline"). If the Project is not completed on or prior to the Completion Deadline, the Parties hereby determine and agree in advance that because of difficulty in computing the City's actual damages resulting or stemming therefrom and thereby, Contractor shall be liable to City for liquidated damages in the amount of \$500.00 per each calendar day or portion of a day beyond the Completion Deadline that any aspect of the work remains uncompleted; the Parties agree that such amount represents a reasonable forecast of the actual damages City will suffer by failure of Contractor to complete the work on or prior to the Completion Deadline. The execution of this Contract shall constitute acknowledgment by Contractor that Contractor has ascertained and agrees that City will actually suffer damages in the amount herein fixed for each day or portion of a day beyond the Completion Deadline that the work or any aspect of it remains uncompleted.

6. Contractor's Responsibilities. Contractor shall provide and bear the expense of all tools, supplies, materials, equipment, personnel and labor of any sort whatsoever that may be required for acquisition, mobilization, transfer, installation, performance and completion the Project and every part and portion thereof, except such as are mentioned in the specifications to be furnished by the City if any; and Contractor shall and does warranty for fitness, kind, quality and performance said materials and work for a period of three (3) years after the date that City accepts the Project as complete. During such warranty period, Contractor agrees to return to the Project and correct any failure, deficiency or defect upon reasonable notice from City. Contractor's warranty promises and obligations are in addition to any other rights and remedies City may have against Contractor for failure, deficiency or defect and/or against Contractor for any other failure or breach by Contractor, and thus in no way limits City's rights and remedies.

7. Project Cost & Payment. The principal amount of the contract is
_____ (\$ _____) plus State sales tax of
_____ (\$ _____) for a total Project cost of
_____ (\$ _____). The total Project cost includes all costs associated with the Project work, including, but not limited to, labor, materials, overhead, administrative and permit and regulatory costs, unless otherwise separately and subsequently agreed in writing. The payment for the work completed under this Contract shall be a lump sum and made in a single payment to Contractor after the date that City accepts the Project as complete.

8. Standard Specifications. All work, materials and testing shall conform to the "2023 Standard Specifications for Road, Bridge and Municipal Construction" prepared by the Washington State Department of Transportation/American Public Works Association, which is/are expressly incorporated in this Contract by this reference, except as herein supplemented or modified if at all. A copy of the Standard Specifications is available for the Contractor's review online at the following website: <https://wsdot.wa.gov/engineering-standards/all-manuals-and-standards/manuals/standard-specifications-road-bridge-and-municipal-construction>. The Contractor is encouraged to obtain copies of, and thoroughly review, such Standard Specifications so as to ensure Contractor's knowledge and understanding of such. The Standard Specifications are hereby modified by the special provisions and supplemental specifications as follows: N/A. The specific terms of this Contract shall control any conflicting terms in the Standard Specifications.

9. Prevailing Wages. The Contractor shall pay prevailing wages as required and shall comply with RCW Chapters 39.12 and 49.28. A schedule of prevailing wages applicable to the Project may be found online at the following website: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>, Dated: January 13, 2023. The Department of Labor and Industries ("L&I") publishes new rates on the first business day of February and the first business day of August of each year. These rates become effective thirty (30) days after the date of publication. The applicable prevailing wage rate for this Contract shall be the rate in effect on:

1. The date the written quote for the work is received by the City; or
2. Where no bid date has been established, on the date the signed bid is submitted to City.

"Notice of Intent" to pay prevailing wages and the applicable prevailing wage rates for the Project shall be posted for the benefit of the workers. Final payment shall be made in accordance with

the requirements of RCW Chapter 39.12. City shall not release final payment until Contractor has submitted an "Affidavit of Wages Paid" that has been certified by L&I.

Pursuant to RCW 39.12.120, a contractor, subcontractor, or employer shall file a copy of its certified payroll records using the L&I online system at least once per month. If the L&I online system is not used, a contractor, subcontractor, or employer shall file a copy of its certified payroll records directly with L&I in a format approved by L&I at least once per month. A contractor, subcontractor, or employer's noncompliance with this reporting constitutes a violation of RCW 39.12.050.

10. Bonding and Retainage. Bonding and retainage shall be required (or waived) in accordance with RCW 39.04.155. For limited public works projects, in lieu of bonding and retainage as required by RCW 39.08.010 and RCW 60.28.011, City will retain ten percent (10%) of the contract amount for a period of forty-five (45) days after the latest of the date City accepts the work as complete, the date City receives the approved Affidavit of Wages Paid, or date of settlement of any lien(s) that were filed with regard to the Project under RCW Chapter 60.28 or otherwise.

11. Changes. City may issue a written change order for any change(s) in the work prior to the date the City accepts the work as complete. If Contractor determines, for any reason, that a change order is necessary, Contractor must submit a written change order request to City within five (5) calendar days of the date Contractor knew or should have known of the facts and events giving rise to the requested change. If City determines that the change increases or decreases Contractor's costs or time for performance, City will make an equitable upward or downward financial adjustment and/or deadline adjustment. City will attempt, in good faith, to reach agreement with Contractor on all equitable adjustments. If the Parties are unable to agree, City will determine the equitable adjustment as it deems appropriate. Contractor shall proceed with the change order work upon receiving the written change order. If Contractor fails to require a change order within the time frame allowed, Contractor waives its right to make any claim or submit subsequent change order requests for that part or portion of the work. If Contractor disagrees with the equitable adjustment, Contractor nevertheless must still complete the change order work; however, Contractor may elect to subsequently protest the adjustment as provided below.

11.1 Procedure and Protest by Contractor. If Contractor disagrees with anything required by a change order, another written order and/or an oral order from City, including any direction, instruction, interpretation, or determination by City, Contractor shall, within five (5) calendar days, provide a signed written notice of protest to City that states the date of the notice of protest, the nature and circumstances that caused the protest, the provisions in the Contract that support the protest, the estimated dollar cost if any of the protested work, how the estimate dollar cost was determined, and an analysis of the progress schedule showing the schedule change or disruption if applicable. Contractor shall keep complete records of extra costs and time incurred as a result of the protested work. City shall have access to any of Contractor's records needed to evaluate the protest. If City determines that a protest is valid, City will adjust the payment for work or time by an equitable adjustment.

11.2 Contractor's Duty to Complete Protested Work. Irrespective of any protest, Contractor shall nevertheless still proceed to promptly complete work that City has ordered.

11.3 Contractor's Acceptance of Changes. Contractor accepts all requirements of a change order by: (1) endorsing the change order; (2) writing a separate acceptance; or (3) not protesting in the required manner. A change order that is accepted by Contractor, and any payment by City thereon, shall constitute full payment and final settlement of all claims for contract time and for direct, indirect, and consequential costs, including costs of delays related to any work, either covered or affected by the change.

11.4 Failure to Protest or Follow Procedures Constitutes Waiver. By not protesting a change order in the required manner, Contractor waives any additional entitlement or claims for protested work and accepts from City any written or oral order (including directions, instructions, interpretations, and determinations).

12. Claims. Contractor shall give written notice to City of all claims other than change orders within five (5) calendar days of the occurrence of events giving rise to the claim. Any claim for damages, additional payment for any reason, or extension of time, shall be conclusively deemed to have been waived by Contractor unless a timely written claim is made in strict accordance with the applicable provisions of this Contract. At a minimum, any written claim by Contractor must include the information required in Paragraph 11.1 regarding protests.

FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM.

Contractor must, in any event, file any claim or bring any suit arising from or connected with this Contract within one hundred twenty (120) calendar days from the date the work is completed and accepted by City.

13. Termination.

13.1 City may terminate this Contract for good cause. "Good cause" shall include, without limitation, any one or more of the following events:

13.1.1. Contractor's refusal or failure to supply a sufficient number of properly skilled workers or proper materials for completion of the work.

13.1.2. Contractor's failure to complete the work within the time specified in this Contract.

13.1.3. Contractor's failure to make full and prompt payment to subcontractors or for material or labor.

13.1.4. Contractor's failure to comply with any federal, state, or local laws, regulations, rules, or ordinances.

13.1.5. Contractor's filing for bankruptcy or being adjudged bankrupt.

13.1.6. Any other material breach of this Contract.

If the City terminates this Contract for good cause, Contractor shall not receive any further monies due under this Contract until the Contract work is completed.

13.2 City may terminate this Contract at any time for convenience and without cause. In the event of a termination for convenience, payment will be made to Contractor for work performed through the date of termination in accordance with this Contract. Contractor shall also be entitled to receive any equitable amount for partially completed items of work (in the event of unit price work) and for the return or disposal of materials. Regardless of whether this Contract is

terminated for cause or for convenience, Contractor shall have no claim against City for loss of anticipated profits on work not performed by Contractor. In the event of a termination for cause is found to be improper, it shall be deemed to be a termination for convenience.

14. Defective or Unauthorized Work. City reserves the right to withhold payment from Contractor for any defective or unauthorized work. Defective or unauthorized work includes, without limitation: work and materials that do not conform to the requirements of this Contract, and extra work and materials furnished without City's written approval. If Contractor is unable, for any reason, to satisfactorily complete any portion of the work, City may complete the work by contract or otherwise, and Contractor shall be liable to City for any additional costs incurred by City. "Additional costs" means all reasonable costs incurred by City, including legal costs and attorneys' fees (at the City Attorney's current rate of \$400.00 per hour), beyond the maximum contract price under this Contract. City further reserves the right to deduct the cost to complete the work, including any additional costs, from any amounts due or to become due to Contractor.

15. Final Payment; Waiver of Claim. CONTRACTOR'S ACCEPTANCE OF FINAL PAYMENT (EXCLUDING WITHHELD RETAINAGE) SHALL CONSTITUTE A WAIVER OF CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY CONTRACTOR AS UNSETTLED AT THE TIME REQUEST FOR FINAL PAYMENT IS MADE.

16. Environmental Regulations. Contractor shall comply with all applicable federal, state and local environmental statutes, regulations, ordinances and rules, including but not limited to 42 USC 4321 *et seq.*; 33 USC 1111 *et seq.*; and RCW Chapters 43.21; 70.74; 70.94; 90.48; 90.58; and WAC Chapter 197.11.

17. Safety. Contractor shall be responsible to comply with all requirements of WAC Chapters 296-24 and 296-155 and other applicable safety regulations for the protection of laborers and facilities during the course of the Project work. Violations of safety regulations and related safety standards shall be considered a material breach of this Contract and a basis for termination of the Contract for cause.

18. Washington Law/Venue. This Contract is made under and shall be governed by and construed in accordance with the laws of the State of Washington. Venue and jurisdiction of any lawsuit relating to this Contract shall exist exclusively in Yakima County Superior Court.

19. Effective Date. This Contract shall be effective on the date by which both Parties have executed this Contract ("Effective Date").

[End of substantive Contract terms]

AUTHORIZED SIGNATURES:

CONTRACTOR:

("Contractor")

By _____

Its _____

Dated _____

Address: _____

Telephone: _____

Email: _____

State of Washington General

Contractor's License No. _____

CITY OF SELAH:

("City" or "Owner")

By _____

Title: _____

Dated _____

EXHIBIT B

PROJECT INFORMATION

EXHIBIT B: LOCATION OF WORK



Red Area – Project Location

Blue Area – City of Selah Ten-Foot (10') Utility Easement

*This aerial photo is intended to display location of the proposed work. It is not intended to serve as a survey or precisely accurate layout of the property.

S 1ST STREET



Page 18 of 22

EXHIBIT B: SIGN SPECIFICATIONS



Manufacture and install one (1) single-face non-illuminated monument sign:

- 3" steel square tube horizontal supports.
- .250" thick solid aluminum sign platform with textured enamel finish.
- .250" thick aluminum "apple" components with brushed silver and enamel finishes.
- .250" thick steel SELAH letters with flame-burnished treatment and clear-coat finish.
- Secured to basalt columns as required (coordinate with landscaper).

EXHIBIT B (1): SURROUNDING LANDSCAPE



EXHIBIT B (2): SURROUNDING LANDSCAPE



EXHIBIT B (3): SURROUNDING LANDSCAPE



BID SUMMARY		BIDDER NO. 1	BIDDER NO. 2	BIDDER NO. 3
OWNER: City of Selah		Cascade Sign and Fabrication		
PROJECT: Welcome to Selah Sign				
BID OPENING DATE: March 21, 2023				
BID TOTAL		44,423.58		
Bids will be 3/21/2023 10:30 a.m.				



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 4/11/2023

Agenda Number: **13-B***

Action Item

Title: Resolution Authorizing the Mayor to Sign a Washington State Department of Transportation Local Agency Agreement Supplement No. 4, to Deobligate Half of the Excess Construction Funding for the Street Portion of the City's Valleyview Avenue, South Third Street and Southern Avenue Improvements Project

From: Rocky D. Wallace, Public Works Director

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: Reduction of \$259,275.00

Funding Source: 111, Street Improvement Fund

Background/Findings/Facts: This pertains to the City's ongoing Valleyview Avenue, South Third Street and Southern Avenue Improvements Project. The City received a more favorable than expected bid for the street portion of this Project, which has resulted in an excess of construction funding for that portion of the Project. The Washington State Department of Transportation (WSDOT) is requiring the City to "deobligate" half of the excess funding, which equates to a total of \$259,275.00. A three-page Washington State Department of Transportation Local Agency Agreement Supplement No. 4 has been prepared to establish the City's deobligation, and its terms are acceptable to City staff.

Public Works requests that the City Council authorize the Mayor – via approval of the attached proposed Resolution – to sign the Agreement.

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:**

3/28/2023 Resolution No.2993 authorizing the Mayor to sign a Washington State Department of Transportation construction agreement GCB 3820 agreement, related to the City's Valleyview Avenue, South Third Street, and Southern Avenue Improvements Project

- 2/14/2023 Resolution No. 2984 authorizing the Mayor to sign a Washington State Department of Transportation Supplemental Agreement Number 1 to the Washington State Department of Transportation Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement, related to the City's Valleyview Avenue, South Third Street and Southern Avenue Improvements Project.
- 1/24/2023 Resolution No. 2970 authorizing the Mayor to sign a two-page Transportation Improvements Board Updated Cost Estimate, for the Valleyview Avenue, South Thirds Street and Southern Avenue Improvements Project.
- 1/24/2023 Resolution No. 2969 authorizing the Mayor to sign a contract with Midway Underground, LLC, related to the City's Valleyview Avenue, South Thirds Street and Southern Avenue Improvements Project.
- 9/13/2022 Resolution No. 2944 authorizing the Mayor to sign a Washington State Department of Transportation (WSDOT) Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement for the Valleyview Avenue/South Third Street/Southern Avenue Road Improvements Project.
- 8/23/2022 Resolution No. 2942 Authorizing the Mayor to sign a Washington State Department of Transportation (WSDOT) Local Agency Agreement Supplement Number 3, to Obligate Construction funding for the Valleyview/South Third Street/Southern Avenue Improvements Project.
- 8/23/2022 Resolution No. 2941 Authorizing the Mayor to sign a Washington State Department of Transportation (WSDOT) Local Agency Project Prospectus for the Valleyview/South Third Street/Southern Avenue Improvements Project.
- 12/14/2021 Resolution No. 2889 Authorizing the City Administrator to Sign the Approved Administrative Offer Summaries (AOS) for the Valleyview Ave, South Third Street, and Southern Avenue Improvement Projects
- 12/14/2021 Resolution No. 2888 Authorizing the Mayor to Sign a Washington State Transportation Improvement (TIB) Fuel Tax Grant Agreement P-E-182(P03)-1 For Valleyview Avenue, Third Street and Southern Avenue Improvements
- 11/23/2021 Resolution No. 2878 Authorizing the Mayor to Sign Task Order No. 2021-12 Between the City of Selah and HLA Engineering and Land Surveying, Inc., for Engineering and Surveying Services for the Valleyview Ave., South Third Street, Southern Avenue Sewer Improvement Project
- 7/27/2021 Resolution No.2861 Authorizing the Mayor to sign a Transportation Improvement Board (TIB) 2021 Urban Sidewalk Program Application for Valleyview Avenue, Third Street, and Southern Avenue Improvements

- 4/23/2019 Resolution No. 2733 Authorizing the Mayor to sign a Supplemental Agreement Number 3 with HLA Engineering and Land Surveying Inc. for Consultant Services for the Valleyview Ave. /Third St. /Southern Avenue improvement Project
- 4/23/2019 Resolution No. 2732 Authorizing the Mayor to sign the Washington State Department of Transportation (WSDOT) Local Agency Agreement Supplement Number 1 for the Valleyview/South Third Street/Southern Avenue Improvements Project
- 8/11/2015 Resolution No. 2479 Authorizing the Mayor to sign a letter to confirm continuing commitment to Project Match for the Valleyview Avenue/South Third Street/Southern Avenue Project's Right of Way and Construction phases.
- 12/10/2013 Resolution No. 2359 Authorizing the Mayor to Sign an Agreement for Certified Acceptance Services with Yakima County, Washington - STP Paving Project on Valleyview Avenue/South Third Street/Southern Avenue/South First Street
- 12/10/2013 Resolution No. 2356 Authorizing the Mayor to Sign a Local Agency Standard Consulting Agreement for Professional Municipal Engineering Services with Huibregtse, Louman Associates, Inc. for the Valleyview Avenue/South Third Street/Southern Ave/South First Street
- 7/9/2013 Resolution No. 2323 Adopting the Amended Six-Year Transportation Improvement Program for the Years 2013-2018 to Reflect the Funding Status Change to Secure the Purchase of a Clean Air Compliant Street Sweeper and Funding of the Valleyview Avenue to South Third
- 6/13/2013 Resolution No. 2319 Authorizing the Mayor to sign the Washington State Department of Transportation (WSDOT) Local Agency Federal Aid Project Prospectus for the Valleyview Avenue/South Third Street/Southern Avenue Road Improvements Project
- 6/13/2013 Resolution No. 2318 Authorizing the Mayor to sign the Washington State Department of Transportation (WSDOT) Local Agency Agreement for the Valleyview Avenue/South Third Street/Southern Avenue Road Improvements Project
- 1/22/2013 Resolution No. 2289 Authorizing the Mayor to Sign the 2013 Surface Transportation Program (STP) Funding Application for the South Selah Loop Improvement Project
- 1/8/2013 Council Study Session

RESOLUTION NO. 2998

RESOLUTION AUTHORIZING THE MAYOR TO SIGN A WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION LOCAL AGENCY AGREEMENT
SUPPLEMENT NO. 4, TO DEOBLIGATE HALF OF THE EXCESS
CONSTRUCTION FUNDING FOR THE STREET PORTION FO THE, CITY'S
VALLEYVIEW AVENUE, SOUTH THIRD STREET AND SOUTHERN AVENUE
IMPROVEMENTS PROJECT

WHEREAS, the City's Valleyview Avenue, South Third Street and Southern Avenue Improvements Project is still ongoing; and

WHEREAS, the City received a more favorable than expected bid for the street portion of such Project, which has resulted in an excess of construction funding for that portion of the Project; and

WHEREAS, the Washington State Department of Transportation (WSDOT) is requiring the City to "deobligate" half of the excess funding, which equates to a total of \$259,275.00; and

WHEREAS, a three-page Washington State Department of Transportation Local Agency Agreement Supplement No. 4 has been prepared to establish the City's deobligation, and its terms are acceptable to City staff; and


WHEREAS, the City Council finds good cause to authorize the Mayor to sign the Agreement in the form appended hereto;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor be and is authorized to sign the Washington State Department of Transportation Local Agency Agreement Supplement No. 4 in the form appended hereto.

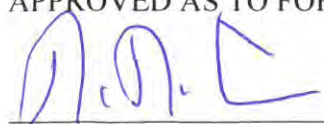
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 11th day of April, 2023.

ATTEST:


Dale Novobielski, Clerk Treasurer


Sherry Raymond, Mayor

APPROVED AS TO FORM:


Rob Case, City Attorney



Agency City of Selah		Supplement Number 4
Federal Aid Project Number STPUS-HIPUS-4709(001)	Agreement Number LA-8284	CFDA No. 20.205 - Highway Planning and Construction

All provisions in the basic agreement remain in effect except as modified by this supplement.

The Local Agency certifies that it is not excluded from receiving Federal funds by a Federal suspension or debarment (2 CFR Part 180). Additional changes to the agreement are as follows:

Project Description

Name Valleyview Avenue/S. Third Street/Southern Avenue/S. First Street Improvements

Length 0.65

Termini Valleyview (S. First St. to S. Third St.) to Southern Ave. to S. First St.

Description of Work

✓ No Change

Reason for Supplement

De-obligate construction funding following bid opening.

Are you claiming indirect cost rate? ☐ Yes ☒ No

Project Agreement End Date 12/31/2026

Advertisement Date

11/9/22 & 11/16/22

Type of Work		Estimate of Funding				
		(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE 86.5 %	a. Agency			0.00		
	b. Other Consultant	255,337.00	0.00	255,337.00	34,470.00	220,867.00
Federal Aid Participation Ratio for PE	c. Other			0.00		
	d. State Services	925.00	0.00	925.00	125.00	800.00
	e. Total PE Cost Estimate (a+b+c+d)	256,262.00	0.00	256,262.00	34,595.00	221,667.00
Right of Way 86.5 %	f. Agency	197,704.00	0.00	197,704.00	26,690.00	171,014.00
	g. Other			0.00		
Federal Aid Participation Ratio for RW	h. Other			0.00		
	i. State Services	3,000.00	0.00	3,000.00	405.00	2,595.00
	j. Total R/W Cost Estimate (f+g+h+i)	200,704.00	0.00	200,704.00	27,095.00	173,609.00
Construction 100 %	k. Contract	2,159,738.00	-297,924.00	1,861,814.00	0.00	1,861,814.00
	l. Other Consultant (Non.-Partic.)	323,960.00	0.00	323,960.00	323,960.00	0.00
	m. Other Sch. B-Non.-Partic. Contr	771,260.00	88,649.00	859,909.00	859,909.00	0.00
Federal Aid Participation Ratio for CN	n. Other Sch. B-Non.-Partic. Consl	115,000.00	-50,000.00	65,000.00	65,000.00	0.00
	o. Agency	10,000.00	0.00	10,000.00	0.00	10,000.00
	p. State Services	3,000.00	0.00	3,000.00	0.00	3,000.00
	q. Total CN Cost Estimate (k+l+m+n+o+p)	3,382,958.00	-259,275.00	3,123,683.00	1,248,869.00	1,874,814.00
	r. Total Project Cost Estimate (e+j+q)	3,839,924.00	-259,275.00	3,580,649.00	1,310,559.00	2,270,090.00

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions.

Agency Official

By

Sherry Raymond

Title Mayor

Agency Date 04/11/2023

Washington State Department of Transportation

By

Director, Local Program

Date Executed

Agency City of Selah		Supplement Number 4
Federal Aid Project Number STPUS-HIPUS-4709(001)	Agreement Number LA-8284	CFDA No. 20.205 - Highway Planning and Construction

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin. Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

XVII. Assurances

Local Agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Instructions

1. **Agency** – Enter the agency name as entered on the original agreement.
2. **Supplemental Number** – Enter the number of the supplement. Supplement numbers will be assigned in sequence beginning with Number 1 for the first supplement.
3. **Project Number** – Enter the federal aid project number assigned by WSDOT on the original agreement.
4. **Agreement Number** – Enter the agreement number assigned by WSDOT on the original agreement.
5. **Project Description** – Enter the project name, length, and termini.
6. **Description of Work** – Clearly describe if there is a change in work such as the addition or deletion of work elements and/or changes to the termini. If the work has not changed, put a check mark in the "No Change" box.
7. **Reason for Supplement** – Enter the reason for this supplement, i.e., increase PE funding to cover design changes presented in the revised prospectus; request funding of construction phase; decrease construction funding to the contract bid amount. If the supplement is authorizing a construction phase, the project's proposed advertisement date must be included in the space provided.
8. **Claiming Indirect Cost Rate** – Check the Yes box if the agency will be claiming indirect costs on the project. For those projects claiming indirect costs, supporting documentation that clearly shows the indirect cost rate being utilized must be provided with the supplement. Indirect cost rate approval by your cognizant agency or through your agency's self-certification and supporting documentation is required to be available for review by FHWA, WSDOT and /or State Auditor. Check the No box if the agency will not be claiming indirect costs on the project. See Section 23.5 for additional guidance.
9. **Project Agreement End Date** – Enter your previously established Project Agreement End Date. If authorizing a new phase of the project, update the Project Agreement End Date based on the following guidance:
 - a. **For PE and RW** – WSDOT recommends agencies estimate when the phase will be completed and add three years to determine the "Project Agreement End Date".
 - b. **For Construction** – WSDOT recommends agencies estimate when construction will be completed and add three years to determine the "Project Agreement End Date".
 - c. If an extension to a Project Agreement End Date is required between phase authorizations, the need for the extension must be described in the Reason for Supplement. Adequate justification to approve the extension must be submitted with the supplement. See Section 22.3 for additional guidance.
10. **Type of Work and Funding (Round all amounts to the nearest whole dollar).**
 - a. **Column 1** – Enter the amounts from column 1 of the original local agency agreement. If the agreement has already been supplemented, enter the amounts by type of work from column 3 of the last supplemental agreement.
 - b. **Column 2** – Enter increase/decrease to total amounts requested by type of work.
 - c. **Column 3** – Add the amounts in columns 1 and 2.
 - d. **Columns 4 and 5** – Enter the appropriate amounts based on the participation ratio recorded on the original agreement.
11. **Signatures** – An authorized official of the local agency signs the Supplemental Agreement and enters their title and date of signature (mm/dd/yy). **Note:** Do NOT enter a date on the Date Executed line.

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Mayor of the Selah, City of

hereby certify that the Council of such Association is composed of

7 members, of whom, 4 constituting a quorum, were present at a meeting thereof duly called and

held on the April 11 day of 2023; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of _____, the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this April 11 day of 2023

Sherry Raymond

Title Mayor



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 4/11/2023

Agenda Number: 13-C*

Action Item

Title: Resolution Authorizing the Mayor to Sign the United States Department of Agriculture Rural Development RUS BULLETIN 1780-27 LOAN RESOLUTION, Relating to the City's Wastewater Collection System Improvements Project

From: Rocky D. Wallace, Public Works Director

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: \$2,111,000.00

Funding Source: 415, Sewer Fund

Background/Findings/Facts: The City previously received a loan funding commitment from the United States Department of Agriculture (USDA) relative to completion of the City's Wastewater Collection System Improvements Project. The corresponding USDA Funding Agreement required, among other things, that the City had to obtain and utilize interim commercial financing equivalent to the value of the eventual USDA loan – specifically for the amount of \$2,111,000.00. The purpose of requiring the City to obtain and utilize interim financing is to alleviate USDA from having to issue periodic advances and to process multiple payment requests while the Project is ongoing, and to instead have the advances and funding requests handled by a commercial lender until the Project is complete and the USDA loan pays off the interim commercial loan and becomes the final loan on the Project.

The City previously obtained the necessary interim commercial financing from Banner Bank, and the City utilized that interim financing during this Project. The City Council declared this Project substantially complete during its regular meeting on March 28, 2023. Thus, it is now time for the USDA loan to pay off the interim Banner Bank loan and to become the final loan on this Project.

To make this happen, the City Council needs to approve and adopt a Resolution in a format that is dictated by the USDA. Such Resolution bears a couple different titles, with one title simply being "LOAN RESOLUTION" and another more-full title being "USDA-RD RUS BULLETIN 1780-27 LOAN RESOLUTION". In order to keep some degree of uniformity with the City Council's typical Resolutions, the City Attorney has drafted a companion Resolution to the USDA's LOAN RESOLUTION.

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:
3/28/2023	Resolution No. 2995 declaring the Wastewater Collection System Improvements Project as substantially complete
2/28/2023	Resolution No. 2988 authorizing the Mayor to sign, on behalf of the City, Change Order No. 04 with Belsaas and Smith Construction, Inc. Pertaining to the Wastewater Collection System Improvements Project.
1/24/2023	Resolution No. 2974 authorizing the Mayor to sign, on behalf of the City, Amendment No. 2 to the owner-engineer agreement with HLA Engineering and Land surveying, Inc., pertaining to the Wastewater Collection Systems Improvements Project.
7/12/2022	Resolution No. 2930 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 System Improvements Project
7/12/2022	Resolution No. 2929 authorizing the Mayor to sign construction contract Change Order No. 3 between the City of Selah and Belsaas & Smith for the 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
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
12/14/2021	A Resolution No. 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
12/7/2021	Bid Opening
11/22/2021	Advertisement for Bids
11/15/2021	Advertisement for Bids
5/26/2021	USDA Rural Development Letter- Approval to proceed to Bid
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.

7/23/2019

Resolution No. 2746 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

RESOLUTION NO. 2944

RESOLUTION APPROVING AND ADOPTING THE "USDA-RD RUS BULLETIN 1780-27
LOAN RESOLUTION" IN THE FORMAT PROPOSED BY USDA

WHEREAS, the United States Department of Agriculture (USDA) has proposed a Resolution in its own chosen format that varies from the typical format of the City Council's Resolutions; and

WHEREAS, such USDA Resolution measures three pages in length and has bears a couple different titles, with one title simply being "LOAN RESOLUTION" and another more-full title being "USDA-RD RUS BULLETIN 1780-27 LOAN RESOLUTION", and with the third page thereof having the heading of "CERTIFICATION TO BE EXECUTED AT LOAN CLOSING"; and


WHEREAS, the City Council finds that good cause exists to approve and adopt such Resolution in the form proposed by the USDA, because the Resolution will enable a USDA-provided loan to pay off an interim commercial loan by Banner Bank that the City obtained and utilized during the course of its Wastewater Collections Improvements Project, which Project is now complete; and

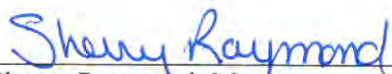
WHEREAS, in order to keep some degree of uniformity with the City Council's typical Resolutions, the instant page/Resolution has been drafted and will simultaneously be approved and adopted by the City Council, so as to further confirm that the City Council has also approved and adopted the underlying USDA loan;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, as follows: (1) the instant page/Resolution is approved and adopted; (2) the underlying three-page "USDA-RD RUS BULLETIN 1780-27 LOAN RESOLUTION" is approved and adopted; and (3) the Mayor and/or City staff are authorized to sign, date, notarize and take whatever further actions might be necessary in order to execute and effectuate such USDA Resolution.


PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 11th day of April, 2023.

ATTEST:


Dale Novobielski, Clerk Treasurer


Sherry Raymond, Mayor

APPROVED AS TO FORM:


Rob Case, City Attorney

LOAN RESOLUTION
(Public Bodies)A RESOLUTION OF THE CouncilOF THE Selah, City of

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

Municipal

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the Selah, City of

(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

Two Million One Hundred Eleven Thousand & 00 100pursuant to the provisions of RCW 35 ; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal ly permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0121. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$ _____

under the terms offered by the Government; that the _____

and _____ of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas 7 Nays 0 Absent 0

IN WITNESS WHEREOF, the Council of the

Selah, City of has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this APRIL, 11 day of 2023

(SEAL)

By Sherry Raymond
SHERRY Raymond
Title Mayor

Attest: [Signature]
Title Clerk-Treasurer



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 4/11/2023

Agenda Number: **13-D**

Action Item

Title: Resolution Authorizing the Mayor to Sign an Agreement with Flock Safety for acquisition, installation, and implementation of Flock Automated License Plate Reader (ALPR) Cameras inside the City of Selah.

From: Dan Christman, Chief of Police

Action Requested: Approval

Staff Recommendation: To approve the attached Resolution in the form presented

Board/Commission Recommendation: Not Applicable

Fiscal Impact: The Selah Police Department applied for Yakima County American Rescue Plan Act Recovery (ARPA) monies, to fund the implementation of ten (10) Flock Cameras in the City of Selah. On March 3, 2023 the Police Chief received a letter from the County Commissioners agreeing to fund \$30,780.00 from Yakima County's ARPA funds. These monies will cover the first full year of operation. In the years to follow the first year of operation, the cost to maintain the subscription with Flock Safety will cost \$3000 per camera, or approximately \$24,000.

Funding Source: Fund 001 General Department: Police

Background/Findings/Facts:

The Flock Safety Automated License Plate Reader (ALPR) system records vehicle-specific data, including license plate information and vehicle descriptors, without the privacy concerns of biometric based systems. This information is then collected in Flock Safety's cloud based database where any data of evidentiary value can be downloaded for use in legal proceedings.

The data collected by these cameras will serve as a crucial lead generator for detectives investigating both major crimes and emerging crime trends. Serving as a force multiplier to the Police Department, the system notifies law enforcement agencies of vehicles on the National Crime Information Center's "hotlist" of stolen vehicles as well as all statewide alert programs, such as AMBER and Silver alerts.

Flock Safety provides advanced technology ALPR cameras that captures features such as vehicle type, make, and color. Other unique search features such as bumper stickers, decals, roof racks, and missing or covered license plates are integrated into Flock's software system, which helps to develop investigative leads and alerts that can help solve and even prevent some crimes.

The City of Yakima currently uses 33 Flock ALPR cameras, and have proven to be a valuable investigative tool. Shortly after their implementation, the City credited Flock Cameras with helping to recover 37 stolen vehicles, arrest 28 violent offenders, serve 19 warrants, and locate 16 missing persons.¹ The City of Yakima is scheduled to receive 40 additional cameras on this same Yakima County ARPA grant.

In the Yakima Valley, there will be over 230 Flock ALPR cameras deployed in multiple cities, and all interconnected, making a significant contribution to the quantity and quality of sharable information available in our region.

In addition to the City of Selah, the Cities listed below received letters from the Yakima County Board of County Commissioners (BOCC) confirming that they will receive ARPA monies to fund Flock Cameras in their respective Cities.

CITY	AWARD	FUNDS	POP.	VIOLENT CRIME ²	PROPERTY CRIME ³	AWARD
Grandview	20 Cameras	\$61,560.00	10,919	7.6	27.5	\$61,560.00
Harrah	3 Cameras	\$9,234.00	573	3.2	23.17	\$9,234.00
Mabton	5 Cameras	\$15,390.00	1,948	3.7	22.17	\$15,390.00
Moxee	6 Cameras	\$18,468.00	4,632	2.5	98.84	\$18,468.00
Naches	8 Cameras	\$24,624.00	1,142	2.0	18.52	\$24,624.00
Selah	10 Cameras	\$30,780.00	8,456	1.6	14.64	\$30,780.00
Sunnyside	40 Cameras	\$123,120.00	16,531	1.9	69.83	\$123,120.00
Toppenish	26 Cameras	\$80,028.00	8,824	1.7	23.92	\$80,028.00
Union Gap	15 Cameras	\$46,255.50	6,530	4.0	70.43	\$46,255.50
Wapato	8 Cameras	\$24,624.00	4,490	3.5	25.57	\$24,624.00
Yakima	40 Cameras	\$123,462.00	98,200	3.3	28.38	\$123,462.00
Zillah	17 Cameras	\$52,650.00	3,245	2.1	21.24	\$52,650.00

The Selah Police Department has recently used leads generating from outside jurisdictions' Flock Safety systems to identify suspects, and it is anticipated the direct use of the Flock Safety system will benefit us in the identification and apprehension of those suspected of crimes in and around the City of Selah.

The Police Department believes that Flock ALPR cameras placed at strategic locations around the City will add a significant investigative option that will help solve/deter crime in Atherton's neighborhoods. Placing ALPR cameras along the Atherton borders will provide law enforcement investigators with a pointer system that can help to identify vehicles associated with suspects, witnesses, or victims, and to develop exculpatory information that assists them with focusing their investigative resources. The data also allows law enforcement to connect serial criminal activities that may have occurred in disconnected law enforcement jurisdictions.

¹ [YakTriNews](#)

² Violent Crime Rate per 1000 residents

³ Property Crime Rate per 1000 residents

Staff originally surmised that it would take 10 ALPR cameras to cover the City's primary entrance and exit points. However, after a delay in distribution of county ARPA funds, the cost per camera increased, therefore reducing the number of cameras to eight in order to remain within budget.

In an effort to minimize costs to the City, and maximize the camera's abilities, strategic placement of eight inaugural cameras should accomplish our mission. After the first year of use, staff can reassess and determine if more (or less) cameras are needed.

SELAH LOCATIONS	DIRECTION	NUMBER OF CAMERAS
S. 1 st St (SR 823)	Inbound and outbound	Two (2) cameras
Goodlander & Wenas	Inbound and outbound	Two (2) cameras
N. Wenas Rd / E. Home Ave.	TBD Inbound and/or outbound	One (1) cameras
Crusher Canyon	TBD Inbound and/or outbound	One (1) cameras
Speyers Rd., (1200 block)	TBD Inbound and/or outbound	One (1) camera
West Freemont, near SIS	TBD Inbound and/or outbound	One (1) camera
TOTAL		8 ALRP Cameras

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**

RESOLUTION NO. 3000

RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH
FLOCK SAFETY FOR ACQUISITION, INSTALLATION, AND IMPLEMENTATION
OF FLOCK AUTOMATED LICENSE PLATE READER (ALPR) CAMERAS INSIDE
THE CITY OF SELAH

WHEREAS, the City desires to enter into an Agreement with Flock Safety, whereby Flock Safety provides advanced technology Automated License Plate Reader (ALPR) cameras that capture features such as vehicle type, make, and color and helps to develop investigative leads and alerts that can help solve and even prevent crimes; and

WHEREAS, Flock Safety has established operations that are capable of continuing to provide such high-tech photographic services to the Selah Police Department; and

WHEREAS, Flock Safety has drafted a "Government Agency Agreement" which recites in detail the conditions of the "Agreement;" and

WHEREAS, the terms of the proposed contract are acceptable to City Staff, and City staff recommends that the City Council authorize the Mayor to sign the "Agreement;"

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, the Mayor is authorized to sign the "Governmental Agency Agreement" with Flock Safety in the form appended hereto.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 11th day of April, 2023.




Sherry Raymond, Mayor

ATTEST:


Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:


Rob Case, City Attorney



BOARD OF YAKIMA COUNTY COMMISSIONERS

Amanda McKinney
District 1

Kyle Curtis
District 2

LaDon Linde
District 3

March 3, 2023

Dan Christman
City of Selah d/b/a Selah Police Department
617 S 1st St
Selah, WA 98942

Re: ARPA Application #37604 – Flock Cameras

Dear ARPA Applicant-

Congratulations! The Board of Yakima County Commissioners has agreed to fund **\$30,780.00** from Yakima County's American Rescue Plan Act Recovery (ARPA) funds for the project stated above. We had many more applications than we had anticipated and those that we received were all very impressive so it took longer than anticipated to finalize the allocation of these funds.

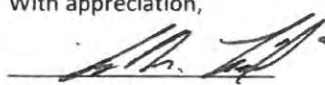
Here is what you can expect moving forward on your ARPA award. Yakima County is working with CliftonLarsonAllen, LLC, to implement an ARPA tracking system to support the application, contracting, reimbursement and federal reporting requirements for the ARPA funds. Once this is in place, you will be contacted and shown how to enter your information into the system so we can move the agreement between Yakima County and your entity forward. Your contact with Yakima County will be Craig Warner, Financial Services Director, at (509) 574-1313 or at craig.warner@co.yakima.wa.us. If you have questions, please contact Craig.

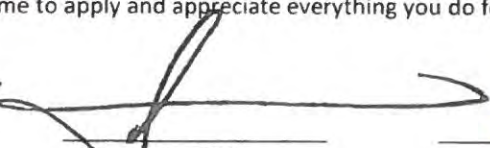
We know that we may not have been able to fund your entire project, and even if we did with inflation, you may be looking for other resources. Here are various funding opportunities that may be applicable to your project/program. We encourage your organization to look at the following resources to see if your project/program meets the funding guidelines:


- Supporting Investment in Economic Development (SIED)
<https://chooseyakimavalley.com/doing-business/public-infrastructure-funding-program-sied/>
- Yakima Valley Community Foundation
<https://yakimavalleycf.org/>
- WA Department of Commerce
<https://www.commerce.wa.gov/category/contracting-with-commerce/grants-and-loans/>
- Legends Casino – Yakama Cares
<https://legendscasino.com/yakama-cares/>
- Federal Government Grants and Loans
<https://www.usa.gov/grants>

We thank you for taking the time to apply and appreciate everything you do for our community.

With appreciation,


LaDon Linde
Chair of the Board
Commissioner, District 3


Amanda McKinney
Commissioner, District 1


Kyle Curtis
Commissioner, District 2

FLOCK GROUP INC.
SERVICES AGREEMENT
ORDER FORM

This Order Form together with the Terms (as defined herein) describe the relationship between Flock Group Inc. (“**Flock**”) and the customer identified below (“**Agency**”) (each of Flock and Customer, a “**Party**”). This order form (“**Order Form**”) hereby incorporates and includes the “GOVERNMENT AGENCY AGREEMENT” attached (the “**Terms**”) which describe and set forth the general legal terms governing the relationship (collectively, the “**Agreement**”). The Terms contain, among other things, warranty disclaimers, liability limitations and use limitations.

The Agreement will become effective when this Order Form is executed by both Parties (the “**Effective Date**”).

Agency: WA - Selah PD

Legal Entity Name:

Address:
617 S 1st St
Selah, Washington 98942

Expected Payment Method:

Initial Term: 12 months
Renewal Term: 24 months

Contact Name: Dan Christman

Phone: (509) 698-7348
E-Mail: dan.christman@selahwa.gov

Billing Contact:
(if different than above)

Billing Term: Annual payment due Net 30 per terms and conditions
Billing Frequency: Annual Plan - First Year Invoiced at Signing

Professional Services and One-Time Purchases

Name	Price/Usage Fee	QTY	Subtotal
Professional Services - Standard Implementation Fee	\$350.00	10.00	\$3,500.00

Hardware and Software Products

Annual recurring amounts over subscription term

Name	Price/Usage Fee	QTY	Subtotal
Falcon	\$2,500.00	10.00	\$25,000.00

Subtotal Year 1:	\$28,500.00
Subscription Term:	12 Months
Annual Recurring Total:	\$25,000.00
Estimated Sales Tax:	\$2,365.50
Total Contract Amount:	\$28,500.00

flock safety

GOVERNMENT AGENCY AGREEMENT

This Government Agency Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Rd NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the police department or government agency identified in the signature block of the Order Form (“**Agency**”) (each a “**Party**,” and together, the “**Parties**”).

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution for automatic license plates, video and audio detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Services are capable of capturing audio, video, image, and recording data and can provide notifications to Agency upon the instructions of Non-Agency End User (as defined below) (“**Notifications**”);

WHEREAS, Agency desires access to the Flock Service on existing cameras, provided by Agency, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, including those from Non-Agency End Users of the Flock Service (where there is an investigative or bona fide lawful purpose) such as schools, neighborhood homeowners associations, businesses, and individual users;

WHEREAS, Flock deletes all Footage on a rolling thirty (30) day basis, excluding Wing Replay which is deleted after seven (7) days. Agency is responsible for extracting, downloading and archiving Footage from the Flock System on its own storage devices for auditing for prosecutorial/administrative purposes; and

WHEREAS, Flock desires to provide Agency the Flock Service and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations by police departments, and archiving for evidence gathering (“**Permitted Purpose**”).

AGREEMENT

NOW, THEREFORE, Flock and Agency agree that this Agreement, and any addenda attached hereto or referenced herein, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Advanced Search**” means the provision of Services, via the web interface using Flock’s software applications, which utilize advanced evidence delivery capabilities including convoy analysis, multi-geo search, visual search, cradlepoint integration for automatic vehicle location, and common plate analysis.

1.2 “**Agency Data**” means the data, media and content provided by Agency through the Services. For the avoidance of doubt, the Agency Data will include the Footage.

1.3 “**Agency Generated Data**” means the messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, other information or materials posted, uploaded, displayed, published, distributed, transmitted, broadcasted, or otherwise made available on or submitted through the Wing Suite.

1.4. “**Agency Hardware**” means the third-party camera owned or provided by Agency and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5. “**Aggregated Data**” means information that relates to a group or category of individuals, from which any potential individuals’ personal identifying information has been permanently “anonymized” by commercially available standards to irreversibly alter data in such a way that a data subject (i.e., individual person or impersonal entity) can no longer be identified directly or indirectly.

1.6 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Agency accessing or using the Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

1.7 “**Deployment Plan**” means the strategic geographic mapping of the location(s) and implementation of Flock Hardware, and/or other relevant Services required under this Agreement.

1.8 “**Documentation**” means text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Services which are provided by Flock to Agency in accordance with the terms of this Agreement.

1.9 “**Embedded Software**” means the software and/or firmware embedded or preinstalled on the Flock Hardware or Agency Hardware.

1.10 “**Falcon Flex**” means an infrastructure-free, location-flexible license plate reader camera that enables the Agency to self-install.

1.11 “**Flock Hardware**” means the Flock cameras or device, pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services.

1.12 “**Flock IP**” means the Services, the Documentation, the Embedded Software, the Installation Services, and any and all intellectual property therein or otherwise provided to Agency and/or its Authorized End Users in connection with the foregoing.

1.13 “**Flock Safety Falcon™**” means an infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.14 “**Flock Safety Raven™**” means an audio detection device that provides real-time alerting to law enforcement based on programmed audio events such as gunshots, breaking glass, and street racing.

1.15 “**Flock Safety Sparrow™**” means an infrastructure-free license plate reader camera for residential roadways that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.17 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Agency Hardware in the course of and provided via the Services.

1.18 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e. NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.19 “**Implementation Fee(s)**” means the monetary fees associated with the Installation Services, as defined below.

1.20 “**Installation Services**” means the services provided by Flock for installation of Agency Hardware and/or Flock Hardware, including any applicable installation of Embedded Software on Agency Hardware.

1.21 “**Non-Agency End User(s)**” means any individual, entity, or derivative therefrom, authorized to use the Services through the Web Interface, under the rights granted to pursuant to the terms (or to those materially similar) of this Agreement.

1.22 “**Services**” or “**Flock Services**” means the provision, via the Web Interface, of Flock’s software applications for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.23 “**Support Services**” means Monitoring Services, as defined in Section 2.10 below.

1.24 “**Usage Fee**” means the subscription fees to be paid by the Agency for ongoing access to Services.

1.25 “**Web Interface**” means the website(s) or application(s) through which Agency and its Authorized End Users can access the Services, in accordance with the terms of this Agreement.

1.26 “**Wing Suite**” means the Flock interface which provides real-time access to the Flock Services, location of Flock Hardware, Agency Hardware, third-party cameras, live-stream video, Wing Livestream, Wing LPR, Wing Replay, alerts and other integrations.

1.27 “**Wing Livestream**” means real-time video integration with third-party cameras via the Flock interface.

1.28 “**Wing LPR**” means software integration with third-party cameras utilizing Flock’s Vehicle Fingerprint Technology™ for license plate capture.

1.29 “**Wing Replay**” means enhanced situational awareness encompassing Footage retention, replay ability, and downloadable content from Hot Lists integrated from third-party cameras.

1.30 “*Vehicle Fingerprint™*” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Agency’s designated administrator, listed on the Order Form, and any Authorized End Users to access and download via the Web Interface for thirty (30) days. Authorized End Users will be required to sign up for an account and select a password and username (“*User ID*”). Flock will also provide Agency with the Documentation to be used in accessing and using the Services. Agency shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Agency, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Agency. Agency shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User’s use of the Services and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage) which makes the Services available to Agency and Authorized End Users. Warranties provided by said third party service providers are the agency’s sole and exclusive remedy and Flock’s sole and exclusive liability with regard to such third-party services, including without limitation hosting the Web Interface. Agency agrees to comply with any acceptable use policies and other terms of any third-party service provider that are provided or otherwise made available to Agency from time to time.

2.2 Embedded Software License. Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as installed on the Flock Hardware or Agency Hardware; in each case, solely as necessary for Agency to use the Services.

2.3 Documentation License. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right and license to use the Documentation during the Term in connection with its use of the Services as contemplated herein, and under Section 2.5 below.

2.4 Wing Suite License. Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Wing Suite software and interface.

2.5 Usage Restrictions.

2.5.1 Flock IP. The permitted purpose for usage of the Flock Hardware, Agency Hardware, Documentation, Services, support, and Flock IP are solely to facilitate gathering evidence that could be used in a lawful criminal investigation by the appropriate government agency ("**Permitted Purpose**"). Agency will not, and will not permit any Authorized End Users to, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Services or Flock IP; (vi) use the Services, support, Flock Hardware, Documentation, or the Flock IP for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Agency's rights under Sections 2.1, 2.2, 2.3, or 2.4.

2.5.2. Flock Hardware. Agency understands that all Flock Hardware is owned exclusively by Flock, and that title to any Flock Hardware does not pass to Agency upon execution of this Agreement. Except for Falcon Flex products, which are designed for self-installation, Agency is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Notwithstanding the notice and cure period set for in Section 6.3, Agency agrees and understands that in the event Agency is found to engage in any of the restricted actions of this Section 2.5.2, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination (without opportunity to cure) for material breach by Agency.

2.6 Retained Rights; Ownership. As between the Parties, subject to the rights granted in this Agreement, Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Agency further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. There are no implied rights.

2.7 Suspension.

2.7.1 Service Suspension. Notwithstanding anything to the contrary in this Agreement, Flock may temporarily suspend Agency's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP by Agency; (b) Agency's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Agency or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Agency has violated any term of this provision, including, but not limited to, utilizing the Services for

anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Agency's account ("**Service Suspension**"). Agency shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit.

2.7.2 Service Interruption. Services may be interrupted in the event that: (a) Flock's provision of the Services to Agency or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("**Service Interruption**"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Agency and to provide updates regarding resumption of access to Flock Services. Flock will use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Agency or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Agency's direct actions or by the actions of parties associated with the Agency, the expiration of the Term will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day) prorated for the proportion of cameras on the Agency's account that have been impacted. For example, in the event of a Service Interruption lasting five (5) continuous days, Agency will receive a credit for five (5) free days at the end of the Term.

2.8 Installation Services.

2.8.1 Designated Locations. For installation of Flock Hardware, excluding Falcon Flex products, prior to performing the physical installation of the Flock Hardware, Flock shall advise Agency on the location and positioning of the Flock Hardware for optimal license plate image capture, as conditions and location allow. Flock may consider input from Agency regarding location, position and angle of the Flock Hardware ("**Designated Location**") and collaborate with Agency to design the Deployment Plan confirming the Designated Locations. Flock shall have final discretion on location of Flock Hardware. Flock shall have no liability to Agency resulting from any poor performance, functionality or Footage resulting from or otherwise relating to the Designated Locations or delay in installation due to Agency's delay in confirming Designated Locations, in ordering and/or having the Designated Location ready for installation including having all electrical work preinstalled and permits ready, if necessary. After installation, any subsequent changes to the Deployment Plan ("**Reinstalls**") will incur a charge for Flock's then-current list price for Reinstalls, as listed in the then-current Reinstall policy (available at <https://www.flocksafety.com/reinstall-fee-schedule>) and any equipment fees. For clarity, Agency will receive prior notice and provide approval for any such fees. These changes include but are not limited to re-positioning, adjusting of the mounting, re-angling, removing foliage, replacement, changes to heights of poles, regardless of whether the need for Reinstalls related to vandalism, weather, theft, lack of criminal activity in view, and the like. Flock shall have full discretion on decision to reinstall Flock Hardware.

2.8.2 Agency Installation Obligations. Agency agrees to allow Flock and its agents reasonable access in and near the Designated Locations at all reasonable times upon reasonable notice for the purpose of performing the installation work. Although Flock Hardware is designed to utilize solar power, certain Designated Locations may require a reliable source of 120V or 240V AC power. In the event adequate solar power is not available, Agency is solely responsible for costs associated with providing a reliable source of 120V or 240V AC power to Flock Hardware. Flock will provide solar options to supply power at each Designated Location. If Agency refuses recommended solar options, Agency waives any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar power. Additionally, Agency is solely responsible for (i) any permits or associated costs, and managing the permitting process of installation of cameras or AC power; (ii) any federal, state, or local taxes including property, license, privilege, sales, use, excise, gross receipts, or other similar taxes which may now or hereafter become applicable to, measured by or imposed upon or with respect to the installation of the Flock Hardware, its use (excluding tax exempt entities), or (iii) any other supplementary cost for services performed in connection with installation of the Flock Hardware, including but not limited to contractor licensing, engineered drawings, rental of specialized equipment, or vehicles, third-party personnel (i.e. Traffic Control Officers, Electricians, State DOT-approved poles, etc., if necessary), such costs to be approved by the Agency ("**Agency Installation Obligations**"). In the event that a Designated Location for Flock Hardware requires permits, Flock may provide the Agency with a temporary alternate location for installation pending the permitting process. Once the required permits are obtained, Flock will relocate the Flock Hardware from the temporary alternate location to the permitted location at no additional cost. Without being obligated or taking any responsibility for the foregoing, Flock may pay and invoice related costs to Agency if Agency did not address them prior to the execution of this Agreement or a third party requires Flock to pay. Agency represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation.

2.8.3 Flock's Obligations. Installation of Flock Hardware shall be installed in a workmanlike manner in accordance with Flock's standard installation procedures, and the installation will be completed within a reasonable time from the time that the Designated Locations are confirmed. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Following the initial installation of the Flock Hardware and any subsequent Reinstalls or maintenance operations, Flock's obligation to perform installation work shall cease; however, for the sole purpose of validating installation, Flock will continue to monitor the performance of Flock Hardware for the length of the Term and will receive access to the Footage for a period of seven (7) business days after the initial installation for quality control and provide any necessary maintenance. Labor may be provided by Flock or a third-party. Flock is not obligated to install, reinstall, or provide physical maintenance to Agency Hardware. Notwithstanding anything to the contrary, Agency understands that Flock will not provide installation services for Falcon Flex products.

2.8.4 Ownership of Hardware. Flock Hardware shall remain the personal property of Flock and will be removed upon the natural expiration of this Agreement at no additional cost to Agency. Agency shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Agency default on any

payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Agency's default and Flock shall have the right to enforce any other legal remedy or right.

2.9 Hazardous Conditions. Unless otherwise stated in the Agreement, Flock's price for its services under this Agreement does not contemplate work in any areas that contain hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately in the area affected until such materials are removed or rendered harmless.

2.10 Support Services. Subject to the payment of fees, Flock shall monitor the performance and functionality of Flock Services and may, from time to time, advise Agency on changes to the Flock Services, Installation Services, or the Designated Locations which may improve the performance or functionality of the Services or may improve the quality of the Footage. The work, its timing, and the fees payable relating to such work shall be agreed by the Parties prior to any alterations to or changes of the Services or the Designated Locations ("**Monitoring Services**"). Flock will use commercially reasonable efforts to respond to requests for support. Flock will provide Agency with reasonable technical and on-site support and maintenance services ("**On-Site Services**") in-person or by email at support@flocksafety.com, at no additional cost. Notwithstanding anything to the contrary, Agency is solely responsible for installation of Falcon Flex products. Agency further understands and agrees that Flock will not provide monitoring services or on-site services for Falcon Flex.

2.11 Special Terms. From time to time, Flock may offer certain special terms related to guarantees, service and support which are indicated in the proposal and on the Order Form and will become part of this Agreement, upon Agency's prior written consent ("**Special Terms**"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

2.12 Upgrades to Platform. Flock may, in its sole discretion, make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock's products or services to its agencies, (b) the competitive strength of, or market for, Flock's products or services, (c) such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not materially change any terms or conditions within this Agreement.

3. RESTRICTIONS AND RESPONSIBILITIES

3.1 Agency Obligations. Flock will assist Agency Authorized End Users in the creation of a User ID. Agency agrees to provide Flock with accurate, complete, and updated registration information. Agency may not select as its User ID a name that Agency does not have the right to use, or another person's name with the intent to impersonate that person. Agency may not transfer its account to anyone else without prior written permission of Flock. Agency

will not share its account or password with anyone and must protect the security of its account and password. Unless otherwise stated and defined in this Agreement, Agency may not designate Authorized End Users for persons who are not officers, employees, or agents of Agency. Authorized End Users shall only use Agency-issued email addresses for the creation of their User ID. Agency is responsible for any activity associated with its account. Agency shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services. Agency will, at its own expense, provide assistance to Flock, including, but not limited to, by means of access to, and use of, Agency facilities, as well as by means of assistance from Agency personnel to the limited extent any of the foregoing may be reasonably necessary to enable Flock to perform its obligations hereunder, including, without limitation, any obligations with respect to Support Services or any Installation Services.

3.2 Agency Representations and Warranties. Agency represents, covenants, and warrants that Agency will use the Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of video, photo, or audio content. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

4. CONFIDENTIALITY; AGENCY DATA

4.1 Confidentiality. To the extent allowable by applicable FOIA and state-specific Public Records Acts, each Party (the "*Receiving Party*") understands that the other Party (the "*Disclosing Party*") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "*Proprietary Information*" of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Agency includes non-public data provided by Agency to Flock or collected by Flock via the Flock Hardware or Agency Hardware, to enable the provision of the Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event will a Party apply less than reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. Flock's use of the Proprietary Information may include processing the Proprietary Information to send Agency alerts, or to analyze the data collected to identify motion or other events. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing

Party reasonable prior notice of such disclosure to contest such order. For clarity, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Flock, its users, a third party, or the public as required or permitted by law, including respond to an emergency situation. Flock may store deleted Footage in order to comply with certain legal obligations, but such retained Footage will not be retrievable without a valid court order.

4.2 Agency Data. As between Flock and Agency, all right, title and interest in the Agency Data, belong to and are retained solely by Agency. Agency hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to (i) use the Agency Data and perform all acts with respect to the Agency Data as may be necessary for Flock to provide the Flock Services to Agency, including without limitation the Support Services set forth in Section 2.10 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Data as a part of the Aggregated Data, (ii) disclose the Agency Data (both inclusive of any Footage) to enable law enforcement monitoring for elected law enforcement Hotlists as well as provide Footage search access to law enforcement for investigative purposes only, and (iii) and obtain Aggregated Data as set forth below in Section 4.5. As between Agency and Non-Agency End Users that have prescribed access of Footage to Agency, each of Agency and Non-Agency End Users will share all right, title and interest in the Non-Agency End User Data. This Agreement does not by itself make any Non-Agency End User Data the sole property or the Proprietary Information of Agency. Flock will automatically delete Footage older than thirty (30) days. Agency has a thirty (30) day window to view, save and/or transmit Footage to the relevant government agency prior to its deletion. Notwithstanding the foregoing, Flock automatically deletes Wing Replay after seven (7) days, during which time Agency may view, save and/or transmit such data to the relevant government agency prior to deletion. Flock does not own and shall not sell Agency Data.

4.3 Agency Generated Data in Wing Suite. Parties understand that Flock does not own any right, title, or interest to third-party video integrated into the Wing Suite. Flock may provide Agency with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available on or submit through the Wing Suite, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Agency. Agency shall retain whatever legally cognizable right, title, and interest that Agency has in Agency Generated Data. Agency understands and acknowledges that Flock has no obligation to monitor or enforce Agency's intellectual property rights to Agency Generated Data. To the extent legally permissible, Agency grants Flock a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Generated Data for the sole purpose of providing Flock Services. Flock does not own and shall not sell Agency Generated Data.

4.4 **Feedback.** If Agency provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency hereby assigns (and will cause its agents and representatives to assign) to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

4.5 **Aggregated Data.** Flock shall have the right to collect, analyze, and anonymize Agency Data and Agency Generated Data to create Aggregated Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Agency hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right (during and after the Term hereof) to use and distribute such Aggregated Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, other Flock offerings, and crime prevention efforts. Parties understand that the aforementioned license is required for continuity of Services. No rights or licenses are granted except as expressly set forth herein. Flock does not sell Aggregated Data.

5. PAYMENT OF FEES

5.1. **Fees.** Agency shall pay the fees as set forth in the Order Form.

5.2 **Notice of Changes to Fees.** Flock reserves the right to change the fees for subsequent Renewal Terms by providing sixty (60) days' notice (which may be sent by email) prior to the end of the Initial Term or Renewal Term (as applicable).

5.3 **Invoicing, Late Fees; Taxes.** Flock may choose to bill through an invoice, in which case, full payment for invoices must be received by Flock thirty (30) days after the date of invoice. If Agency is a non-tax-exempt entity, Agency shall be responsible for all applicable taxes associated with Services (for non-tax-exempt reasons). If Agency believes that Flock has billed Agency incorrectly, Agency must contact Flock no later than sixty (60) days after the closing date on the first billing statement in which the error or problem appeared, to receive an adjustment or credit. Agency acknowledges and agrees that a failure to contact Flock within this sixty (60) day period will serve as a waiver of any claim Agency may have had due to such billing error.

6. TERM AND TERMINATION

6.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form and shall commence at the time outlined in this section below (the "**Term**"). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal Term**") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

- a. For Wing Suite products: the Term shall commence upon execution of this Agreement and continue for one (1) year, after which, the Term may be extended by mutual consent of the Parties, unless terminated by either Party.
- b. For Falcon and Sparrow products: the Term shall commence upon first installation and validation of Flock Hardware.
- c. For Raven products: the Term shall commence upon first installation and validation of Flock Hardware.
- d. For Falcon Flex products: the Term shall commence upon execution of this Agreement.
- e. For Advanced Search products: the Term shall commence upon execution of this Agreement.

6.2 Termination for Convenience. At any time during the agreed upon Term, either Party may terminate this Agreement for convenience. Termination for convenience of the Agreement by the Agency will be effective immediately. Termination for convenience by Agency will result in a one-time removal fee of \$500 per Flock Hardware. Termination for convenience by Flock will not result in any removal fees. Upon termination for convenience, a refund will be provided for Flock Hardware, prorated for any fees for the remaining Term length set forth previously. Wing Suite products and Advanced Search are not subject to refund for early termination. Flock will provide advanced written notice and remove all Flock Hardware at Flock's own convenience, within a commercially reasonable period of time upon termination. Agency's termination of this Agreement for Flock's material breach of this Agreement shall not be considered a termination for convenience for the purposes of this Section 6.2.

6.3 Termination. Notwithstanding the termination provisions in Section 2.5.2, in the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period. Either Party may terminate this Agreement, without notice, (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. Upon termination for Flock's material breach, Flock will refund to Agency a pro-rata portion of the pre-paid fees for Services not received due to such termination.

6.4 No-Fee Term. Flock will provide Agency with complimentary access to Hotlist alerts, as further described in Section 4.2 ("**No-Fee Term**"). In the event a Non-Agency End User grants Agency access to Footage and/or notifications from a Non-Agency End User, Agency will have access to Non-Agency End User Footage and/or notifications until deletion, subject to a thirty (30) day retention policy for all products except Wing Replay, which is subject to a seven (7) day retention policy. Flock may, in their sole discretion, provide access or immediately terminate the No-Fee Term. The No-Fee Term will survive the Term of this Agreement. Flock, in its sole discretion, can determine to impose a price per No-Fee Term upon thirty (30) days' notice to Agency. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon thirty (30) days' notice.

6.5 Survival. The following Sections will survive termination: 2.5, 2.6, 3, 4, 5, 6.4, 7.3, 7.4, 8.1, 8.2, 8.3, 8.4, 9.1 and 9.6.

7. REMEDY; WARRANTY AND DISCLAIMER

7.1 Remedy. Upon a malfunction or failure of Flock Hardware or Embedded Software (a “*Defect*”), Agency must notify Flock’s technical support as described in Section 2.10 above. If Flock is unable to correct the Defect, Flock shall, or shall instruct one of its contractors to repair or replace the Flock Hardware or Embedded Software suffering from the Defect. Flock reserves the right in their sole discretion to refuse or delay replacement or its choice of remedy for a Defect until after it has inspected and tested the affected Flock Hardware provided that such inspection and test shall occur within a commercially reasonable time, but no longer than seven (7) business days after Agency notifies the Flock of a known Defect. In the event of a Defect, Flock will repair or replace the defective Flock Hardware at no additional cost to Agency. Absent a Defect, in the event that Flock Hardware is lost, stolen, or damaged, Agency may request that Flock replace the Flock Hardware at a fee according to the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Agency shall not be required to replace subsequently lost, damaged or stolen Flock Hardware, however, Agency understands and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen Flock Hardware and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted. Flock is under no obligation to replace or repair Flock Hardware or Agency Hardware.

7.2 Exclusions. Flock will not provide the remedy described in Section 7.1 if Agency has misused the Flock Hardware, Agency Hardware, or Service in any manner.

7.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock’s reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

7.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY’S SOLE REMEDY, AND FLOCK’S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE EMBEDDED SOFTWARE. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR

PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 9.6.

7.5 Insurance. Flock will maintain commercial general liability policies with policy limits reasonably commensurate with the magnitude of Flock's business risk. Certificates of Insurance can be provided upon request.

7.6 Force Majeure. Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, acts or omissions of third-Party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, weather conditions or acts of hackers, internet service providers or any other third Party acts or omissions. Force Majeure includes the novel coronavirus Covid-19 pandemic, and the potential spread of variants, which is ongoing as of the date of the execution of this Agreement.

8. LIMITATION OF LIABILITY; NO FEE TERM; INDEMNITY

8.1 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL HARDWARE AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY, INCOMPLETENESS OR CORRUPTION OF DATA OR FOOTAGE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE OR IDENTIFY AND/OR CORRELATE A LICENSE PLATE WITH THE FBI DATABASE; (D) FOR ANY PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION MADE IN GOOD FAITH; (E) FOR CRIME PREVENTION; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY AGENCY TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 9.6.

8.2 Additional No-Fee Term Requirements. IN NO EVENT SHALL FLOCK'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THE COMPLIMENTARY NO-FEE TERM AS DESCRIBED IN SECTION 6.4 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED

IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. Parties acknowledge and agree that the essential purpose of this Section 8.2 is to allocate the risks under the No-Fee Term described in Section 6.4 and limit potential liability given the aforementioned complimentary service, which would have been substantially higher if Flock were to assume any further liability other than as set forth herein. Flock has relied on these limitations in determining whether to provide the complementary No-Fee Term. The limitations set forth in this Section 8.2 shall not apply to claims or damages resulting from Flock's other obligations under this Agreement.

8.3 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own officers, agents, or employees.

9. INDEMNIFICATION

Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses in connection with any claim or action that arises from an alleged violation of Section 3.1, a breach of this Agreement, Agency's Installation Obligations, Agency's sharing of any data in connection with the Flock system, Flock employees or agent or Non-Agency End Users, or otherwise from Agency's use of the Services, Flock Hardware, Agency Hardware and any Embedded Software, including any claim that such actions violate any applicable law or third Party right. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of Section 3.1 or this Agreement.

10. MISCELLANEOUS

10.1 Compliance With Laws. The Agency agrees to comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s). In the event Flock is legally compelled to comply with a judicial order, subpoena, or government mandate, to disclose Agency Data or Agency Generated Data, Flock will provide Agency with notice.

10.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

10.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent,

(i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

10.4 Entire Agreement. This Agreement, together with the Order Form(s), the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>), Deployment Plan(s), and any attached addenda are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Agency's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail.

10.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Agency does not have any authority of any kind to bind Flock in any respect whatsoever. Flock shall at all times be and act as an independent contractor.

10.6 Governing Law; Venue. This Agreement shall be governed by the laws of the State in which the Agency is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Agency is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

10.7 Publicity. Upon prior consent from Agency, Flock has the right to reference and use Agency's name and trademarks and disclose the nature of the Services provided hereunder in each case in business and development and marketing efforts, including without limitation on Flock's website.

10.8 Export. Agency may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be

governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

10.9 Headings. The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

10.10 Authority. Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

10.11 Notices. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210
ATLANTA, GA 30318
ATTN: LEGAL DEPARTMENT
EMAIL: legal@flocksafety.com

AGENCY NOTICES ADDRESS:

ADDRESS:

ATTN:
EMAIL:

I have reviewed and agree to the Customer Implementation Guide on Schedule B at the end of this agreement.

By executing this Order Form, Agency represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms attached. The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Agency: WA - Selah PD

By: _____

By: Sherry Raymond

Name: _____

Name: Sherry Raymond

Title: _____

Title: Mayor

Date: _____

Date: April 11, 2023



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 4/11/2023

Agenda Number: **13-E**

Action Item

Title: Resolution Directing the City Administrator to Issue a Two-Page Letter Jointly to the Law Firm of Brumback & Ottem and Attorney William Schuler, Notifying Both that their Engagement as Public Defender(s) as to New Cases is Terminated Effective June 30, 2023

From: D. R. (Rob) Case, City Attorney

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: \$5,000.00 per month through June 2023 (as continuation of the existing contract's currently-applicable base compensation rate) and also potential additional per-hour sums for work on trials and/or appeals (at \$90.00 per hour and \$65.00 per hour respectively, again as continuation of the existing contract's currently-applicable rates)

Funding Source: N/A

Background/Findings/Facts: City management desires engage a different independent contractor public defender and to terminate the services of the law firm and lawyer who are currently providing public defense services.

For several years, the City has obtained public defender services for cases at the City's municipal court via an independent contractor relationship. A three-page contract, labeled "Public Defender Contract", was entered into on or about July 16, 2015 – and a copy of that contract is appended hereto. At such time, the law firm that was providing the defender services was named Brumback Law Group, PLLC. More recently, that law firm has come to be named Brumback & Ottem. A one-page amendment to the contract, labeled "First Amendment to Public Defender Contract", was entered into on or about February 5, 2016 – and a copy of that amendment is also appended hereto. The First Amendment increased the flat monthly fee that the City pays from the original \$4,700.00 to the rate of \$5,000.00.

Although, as noted above, the contracting party has been the Brumback law firm, the public defender services have typically been performed by attorney William A. Schuler, III – who is not a member of the Brumback law firm. Mr. Schuler performing the bulk of the services was effectively blessed (or at least not opposed) by prior City management.

For various reasons, City management desires to terminate the services of the Brumback law firm and attorney Schuler, and to contractually engage Daniel Polage as the City's new public

defender. The existing Public Defender Contract requires sixty (60) days advance notice in order to effectuate a termination, with its paragraph 6 specifically reading as follows: "Either party may terminate this contract by notice to the other, sixty (60) days in advance of the termination date." Accordingly, City management is seeking the City Council's approval to send a letter to the Brumback law firm – and also, just for the sake of completeness to attorney Schuler – indicating that the City is terminating their services as to new cases filed on or after May 1, 2023, but further indicating that they will continue to be paid the flat monthly rate through the end of the day on Friday, June 30, 2023 and will also be paid the applicable hourly rates for trials and appeals for future work on the pre-May-1st cases.

A proposed two-page letter has been drafted, and a copy is appended hereto. Also appended is a proposed Resolution, which if approved will direct the City Administrator to sign the letter and cause it to be dispatched.

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:
07/16/2015	Public Defender Contract
02/05/2016	First Amendment to Public Defender Contract

RESOLUTION NO. 3001

RESOLUTION DIRECTING THE CITY ADMINISTRATOR TO ISSUE A TWO-PAGE LETTER JOINTLY TO THE LAW FIRM OF BRUMBACK & OTTEM AND ATTORNEY WILLIAM SCHULER, NOTIFYING BOTH THAT THEIR ENGAGEMENT AS PUBLIC DEFENDER AS TO NEW CASES IS TERMINATED EFFECTIVE JUNE 30, 2023

WHEREAS, City management desires to terminate the services of the law firm (Brumback & Ottem) and attorney (William A. Schuler, III) that are currently providing independent contractor public defense services for the City with regard to new cases filed on or after May 1, 2023; and

WHEREAS, the existing Public Defender Contract requires the City to provide sixty (60) days advance notice in order to effectuate a termination of the engagement as to new cases; and

WHEREAS, a two-page letter has been drafted in order to provide such advance notice, City Management has requested the City Council's approval of such letter and direction to issue it, and the City Council finds and agrees that the proposed letter should be issued;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the City Administrator be and is directed to issue the two-page notice of termination letter in the form appended hereto, and, correspondingly, all City officers and the municipal court are hereby notified that Brumback & Ottem and attorney William A. Schuler, III, shall cease being the City's public defender(s) on new cases filed on or after May 1, 2023.

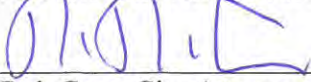
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 11th day of April, 2023.


Sherry Raymond, Mayor

ATTEST:


Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:


Rob Case, City Attorney



CITY OF SELAH

115 West Naches Ave
Selah, WA 98942

P: 509-698-7328
F: 509-698-7338

April 12, 2023

Via Certified Mail, Return Receipt

And Via Regular Mail

And Via Email: scott@bumbackottem.com; sid@bumbackottem.com

Brumback & Ottem
P.O. Box 3210
Union Gap, WA 98903

Via Certified Mail, Return Receipt

And Via Regular Mail

And Via Email: countrylaw@hotmail.com

William A. Schuler, III
Attorney at Law
1540 Old Naches Hwy.
Naches, WA 98937-8734

RE: Notice of Termination of Public Defender Contract

Parties:

This letter constitutes the City of Selah's advance notice of termination of your engagement under the Public Defender Contract dated July 16, 2015 (and also the First Amendment to Public Defender Contract dated February 5, 2016, and any and all other contractual relations, agreements and/or amendments), whereby you have been serving as public defender on indigent cases at the City's municipal court. Technically, only the Brumback law firm has a direct contractual relationship with the City as an independent contractor. However, Mr. Schuler has effectively subcontracted with the Brumback law firm and has been working on most of the cases. Accordingly, this letter is being sent to all of you.

Paragraph 6 of the Public Defender contract establishes a minimum advance notice requirement of sixty (60) days, prior to any termination taking effect. The City hereby selects the end of the day on Friday, June 30, 2023, as the effective date and time for the termination. The City will continue issuing the flat fee monthly payment to you pursuant to the terms of the Public Defender Contract (and its First Amendment, which increased the flat monthly fee) to and through June 30th.



Brumback & Ottem
William A. Schuler, III
April 12, 2023
Page – 2

The City has engaged Daniel Polage as its new independent contractor public defender, and he will commence work on May 1st. New cases filed on or after May 1st will be assigned to Mr. Polage; you will not have any obligation to accept those cases.

The City expects that you will continue accepting new cases that are filed during the remainder of April, and that you will work on those cases and all preexisting cases until the cases are completed. Via prior monthly payments, the City has already paid you the flat monthly fee for all cases that were filed during prior months. Via the forthcoming payment for April, the City will have paid you for the flat monthly fee for all cases that are filed during April. Moreover, the City is going to – as expressed in this letter – continue paying you the flat monthly fee for the months of May and June despite not requiring you to accept any new cases that are filed during those two months. That accommodation should enable you to close out the case backlog that has developed during Mr. Schuler's tenure. The City will pay you the trial hour fees and appeal fees (per the Public Defender Contract) on an as-incurred basis for your continued work on the preexisting cases and April cases.

Thank you for your service. City management wishes you well in your future endeavors.

Respectfully,

Joe Henne
City of Selah
City Administrator
115 W. Naches Ave
Selah, WA 98942
O: 509-698-7326
E: joe.henne@selahwa.gov

FIRST AMENDMENT TO PUBLIC DEFENDER CONTRACT

WHEREAS, the Public Defender has requested an increase in the monthly flat fee paid to it from \$4700.00 to \$5000.00;

WHEREAS, the City Council approved the request at its second regular meeting in January 2016:

NOW THEREFORE, the parties desire to amend the Public Defender Contract dated July 16, 2015 as follows:

I. Amendment.

Section II, paragraph 2 of the Public Defender Contract is amended to read as follows:

2. Base Compensation – Ability to Renegotiate. The Public Defender shall be paid base compensation of ~~\$4700.00~~ \$5000.00 per month. The fee arrangement shall continue on an annual calendar year basis provided that either party may deliver written notice to the other party, on or before November of any calendar year, requesting negotiation of any terms of this contract for the subsequent calendar year.

II. Other terms unaffected.

All remaining provisions of the Public Defender Contract, not subject to this First Amendment, shall remain in full force and effect.

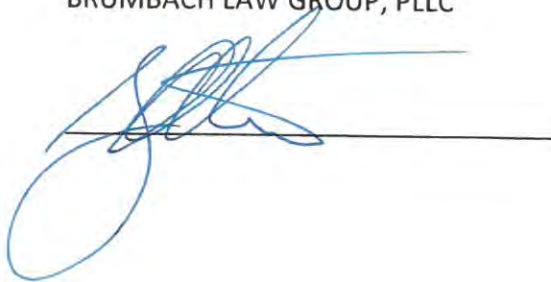
Dated this 5th day of February, 2016.

CITY OF SELAH

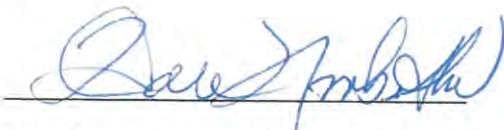
BRUMBACH LAW GROUP, PLLC



Sherry Raymond, Mayor



ATTEST:



Dale Novobielski, City Clerk/Treasurer

CITY OF SELAH
PUBLIC DEFENDER CONTRACT

I. PARTIES

CITY OF SELAH, hereinafter referred to as "City", and Brumback Law Group, PLLC, hereinafter referred to as "Public Defender."

II. AGREEMENT

1. Scope of Services. The Public Defender shall perform all services necessary to defend indigent defendants assigned to it for defense by the Selah Municipal Court. The Public Defender services must be performed on all court days, and the Public Defender must be available by telephone 24 hours a day, seven days a week, for each week of the year in order to give legal advice to persons who may be in custody on City of Selah criminal charges. The Public Defender will submit to the Court Clerk, one week after judgment or other disposition of a matter, a written withdrawal of services from specified cases.

2. Base Compensation- Ability to Renegotiate. The Public Defender shall be paid base compensation of \$4700.00 per month. The fee arrangement shall continue on an annual calendar year basis provided that either party may deliver written notice to the other party, on or before November of any calendar year, requesting negotiation of any terms of this contract for the subsequent calendar year.

3. Jury Trial – Additional Compensation. In the event of a jury trial, the Public Defender shall be paid \$90.00 per hour in addition to the base payment listed above, not to exceed \$500.00 per day. The City will pay all reasonable costs associated with jury trials incurred by the Public Defender. It is the responsibility of the Public Defender to submit a detailed invoice for time spent and costs incurred on all jury trials. The City shall pay for such invoices within 30 days of the date of receipt of the invoice.

4. Appeals – Additional Compensation. In addition to the amount specified, in section 2 above, if there is any appeal of a Municipal Court decision, by the City or Defendant, the Public Defender shall be compensated for the reasonable time spent on such appeal at the rate of \$65.00 per hour for time spent on a matter appealed to the Yakima County Superior Court or any other appellate court. The City will pay all reasonable costs associated with an appeal to the Yakima County Superior Court incurred by the Public

Defender. It is the responsibility of the Public Defender to submit a detailed invoice for time spent and costs incurred on cases appealed to Yakima County Superior Court. The City shall pay for such invoices within 30 days of the date of receipt of the invoice.

5. Term of Agreement. The term of this agreement shall be from July 16, 2015 to December 31, 2015, unless either party terminates this agreement as set forth herein. This agreement shall automatically renew for additional one-year terms if the parties herein do not terminate it as set forth in Section 5 below.

6. Termination. Either party may terminate this contract by notice to the other, sixty (60) days in advance of the termination date.

7. Malpractice Insurance. The Public Defender shall maintain professional liability insurance and shall deliver a certificate to the City showing the limits of coverage now maintained by lawyers.

8. Independent Contractor. The Public Defender is an independent contractor and not an employee of the City of Selah. The Public Defender shall act pursuant to the rules of professional responsibility for the Washington State Bar Association and its ethics rulings. The City of Selah shall not deduct from any monies owed to the Public Defender income tax withholding, FICA withholding, or any other withholding for governmental purposes.

9. Arbitration. In the event of dispute or breach of contract, the matter shall be settled by arbitration in accordance with the arbitration rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator may be entered in any court having jurisdiction. The venue of all proceedings shall be in Yakima County, Washington.

10. Absences. The Public Defender is responsible for making arrangements to secure another Public Defender to provide services in the event of an absence and shall bear the costs for the same.

11. Defense Standards. The Public Defender shall provide the services contemplated herein in a professional, skilled manner consistent with the Standards set forth by the Washington State Bar Association and Standards for Indigent Defense Services; the Washington State Rules of Professional Conduct; and the decision of the Honorable Robert S. Lasnik, Western District of Washington, in Wilbur, et al v. Mt. Vernon, et al, Case No. 2:11-cv-01100.

12. Nondiscrimination. The Public Defender shall comply with all federal, state and local non-discrimination laws or ordinances in the provision of services to indigent defendants as well as with respect to the hiring and employment practices of its employees.

13. Hold Harmless/Indemnification. The Public Defender hereby agrees to release, indemnify, protect, defend and hold harmless the City and its elected and appointed officials, employees and agents from all claims, actions, or damages of any kind and description which may occur to or be suffered by any person or persons, corporation, or property arising, directly or indirectly, out of the operation of this agreement, caused or contributed thereto by the Public Defender. Provided, however, that nothing herein shall be deemed to require the Public Defender to indemnify the City or its elected or appointed officials, agents or employees for injury to persons, corporation, and/or property arising from the sole negligence of the City or its elected or appointed officials, employees and agents. In case of suit or action brought against the City or its elected or appointed officials, agents and employees for damages arising out of or by reason of any of the above mentioned causes, the Public Defender agrees to pay all cost of defense, including reasonable attorney's fees and any judgment.

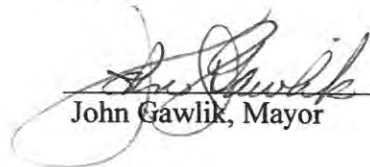
14. Applicable Law. This agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is mutually understood and agreed to by each party hereto that this agreement shall be governed by the laws of the State of Washington both as to interpretation and performance.

Dated this 16th day of July, 2015.

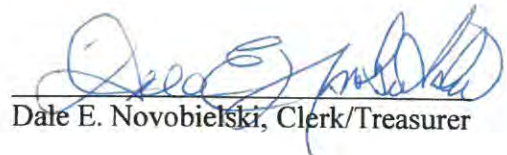
PUBLIC DEFENDER


Brumback Law Group, PLLC

CITY OF SELAH


John Gawlik, Mayor

ATTEST:


Dale E. Novobielski, Clerk/Treasurer



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 4/11/2023

Agenda Number: **13-F**

Action Item

Title: Resolution Authorizing the Mayor to Sign a Fourteen-Page Contract for Indigent Defense Services with Attorney Daniel B. Polage

From: D. R. (Rob) Case, City Attorney

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: Minimum of \$9,000.00 per month (as a flat monthly fee), and additional costs for work on each trial (at \$90.00 per hour, up to \$500.00 per day) and each appeal (at \$65.00 per hour, up to \$750.00 per appeal)

Funding Source: 001, General Fund

Background/Findings/Facts: Because the City operates a municipal court, is it legally obligated to provide public defense counsel for indigent defendants.

Since 2015 (if not earlier), the City has obtained public defense services via a written contract with a Yakima-area law firm, which law firm was named Brumback Law Group, PLLC as of 2015 and has more recently come to be named Brumback & Ottem. At present, the City pays a flat monthly rate of \$5,000.00 (plus additional per-hour sums for trials and appeals). Notably, however, for the past few years the Brumback law firm has subcontracted with lawyer William A. Schuler, III (who is not a member of the law firm) to actually perform the bulk of the public defender services for the City. The City's understanding is that Mr. Schuler and the Brumback law firm have shared the flat monthly fee of \$5,000.00 that the City pays (and also the additional hourly rates that are earned for work on each trial and each appeal). Mr. Schuler performing the bulk of the services was effectively blessed (or at least not opposed) by prior City management.

For a variety of reasons, in 2022 current City management decided to explore the possibility of retaining one or more different public defenders. A "Request for Qualifications and Proposals" (RFQ&P) was publicly disseminated in August 2022, via the City's website and also the email listserv for Yakima-area attorneys. Notably, the RFQ&P explained – among other things – that the City was "willing to consider applications based on a flat monthly rate, those based on a per-case rate, and those based on a flat monthly rate plus an additional amount for actual trial time" and also was "willing to consider applications of the entire indigent caseload and also those based on one-half of the caseload".

In response to the RFQ&P, the City received just three proposals (which was not entirely surprising given that there has been a dearth of attorneys willing to work as public defenders, prosecutors and/or city attorneys during recent years). One proposal was for the entire caseload, and the other two were each for one-half of the caseload. The quoted prices varied and other variances also existed among the proposals. The proposal for the entire caseload was from attorney Bryan Gillihan and quoted the highest effective price (\$162,000.00 per year, or \$13,500.00 per month). The other received proposals were for halves of the caseload and totaled to a much lower combined amount. Thus, City management decided to pursue negotiations with the lawyers who had submitted the half-caseload proposals.

The half-caseload proposals were from attorney Barry Woodard at a flat monthly rate of \$4,500.00 (plus additional per-hour sums for trials and appeals) and attorney Daniel Polage at a flat monthly rate of \$4,000.00 (plus additional per-hour sums for trials and appeals). A letter was issued jointly to Messrs. Woodard and Polage proposing to each – among other things – a potential flat monthly rate of \$4,000.00 (plus additional per-hour sums for trials and appeals) for each accepting a half-caseload appointment. In response, Mr. Woodard notified the City that he was unwilling to accept a flat monthly rate of \$4,000.00. By contrast, Mr. Polage notified the City that he was willing to potentially accept a flat monthly rate of \$4,000.00 (which was his original quoted price, plus additional per-hour sums for trials and appeals).

Shortly thereafter, another local attorney – Wes Gano – contacted the City and stated his willingness to accept a half-caseload appointment. Mr. Gano had learned Mr. Woodard was not willing to accept the rate the City had proposed but that Mr. Polage was willing to accept that rate, and indicated that he (Mr. Gano) was likewise willing to whatever rate had been proposed. Mr. Gano had not submitted a proposal in response to the RFQ&P and the RFQ&P had recited an application deadline of October 14, 2022, which had passed multiple months earlier. Thus, City management conferred as to how to proceed.

City management determined that the best course of action was to offer Mr. Gillihan – who had submitted a proposal, albeit for a full-caseload appointment – the option of potentially accepting a half-caseload appointment at the rate Mr. Polage had indicated willingness to accept, prior to the City potentially engaging in negotiations with Mr. Gano. An email was sent to Mr. Gillihan extending such a proposal, and in response he indicated that he was not willing to accept the proposal. He indicated that he desired at least a two-thirds-caseload (2/3rds) appointment at a flat monthly rate of \$8,500.00 (plus additional per-hour sums for trials and appeals). In response, City management notified Mr. Gillihan that the City would pursue negotiations with other parties.

Negotiations were then commenced with Mr. Gano. Via a telephone discussion, City management relayed the financial details that had been previously proposed to Mr. Polage, and Mr. Gano stated his willingness to accept those financial terms. At this point, City management was hopeful that two half-caseload appointments could soon be made.

City management commenced drafting two contracts, as mirror images of each other for Messrs. Polage and Gano to each accept a half-caseload appointment. The contracts were modeled after an exemplar that the City's risk insurance pool (WCIA) has within the "Liability Resource Manual" section of its webpage, a copy of which is submitted with the instant AIS. Copies of the draft contracts were sent to Messrs. Polage and Gano via email on February 28, 2023. Those drafts are not submitted with the instant AIS because, as explained below, later occurrences led

City management to abandon the idea of making two half-caseload appointments and to instead proceed with making a singular full-caseload appointment (to Mr. Polage).

A few days after the mirror-image draft contracts were disseminated via email, an in-person meeting occurred between Messrs. Polage and Gano and City management. During that meeting, Mr. Gano raised multiple objections to the terms of the proposed contracts. He raised concerns as to both financial terms and non-financial substantive terms (such as those pertaining to recordkeeping, insurance amounts, etc.). This occurred despite Mr. Gano having previously indicated – via telephone discussion – that he was willing to accept the same financial terms that Mr. Polage had previously expressed a willingness to accept. Instead, Mr. Gano now requested a flat monthly rate of \$4,500.00 rather than \$4,000.00, and also hourly rates for trials and appeals higher than what had previously been discussed. He offered calculations and a pricing methodology to explain why these higher amounts were more in line with the amounts he has historically obtained while successfully practicing criminal defense law over a period of decades. During this meeting, Mr. Polage indicated that he agreed with Mr. Gano's perspective and that he (Mr. Polage) also now desired these higher rates. City management concluded the meeting without making any substantive commitments.

Following the meeting, City management conferred and assessed how best to proceed. One option was to simply accept what Messrs. Gano and Polage had communicated during the meeting. Another option was to potentially negotiate new terms with the City's existing public defender(s). Coincidentally, the City had received a letter from the Brumback & Ottem firm during January, which letter sought an increase in the rates the current public defender(s) have been receiving in exchange for a full-caseload appointment. Specifically, the letter proposed a new flat monthly rate of \$8,500.00 (from the preexisting rate of \$5,000.00), and additional per-hour sums for trial of \$120.00 subject to a daily cap of \$700.00 (from the preexisting amounts of \$90.00 per hour subject to a daily cap of \$500.00) and \$120.00 for work on appeals (from the preexisting rate of \$65.00 per hour). A third option was to inquire as to whether Mr. Woodard, as a prior bidder in response to the RFQ&P, might be willing to reopen negotiations either as to a full-caseload or half-caseload appointment. A fourth option was to potentially take no immediate action and to later resubmit a new RFQ&P in hopes of attracting more proposals.

In mid-March, Mr. Polage reinitiated communication with the City. He indicated a willingness to accept a full-caseload appointment, rather than the previously-discussed half-caseload appointment. Further, Mr. Polage indicated that he desired a flat monthly rate of \$9,000.00 in exchange for accepting a full-caseload appointment (rather than \$8,000.00, which would have been double his previously-communicated desire of a flat monthly rate of \$4,000.00 in exchange for a half-caseload appointment).

City management decided to pursue negotiations with Mr. Polage toward a potential full-caseload appointment at his newly-requested flat monthly rate of \$9,000.00, but subject to other contractual changes and concessions that would serve the City's interests (which will be specifically summarized below). A new proposed contract was drafted, and that was sent to Mr. Polage via email on March 30. Mr. Polage responded via email on April 2, indicating his agreement to all terms of the new draft contract. On Tuesday, April 4th, Mr. Polage signed a copy of the new draft contract in advance of any potential action by the City Council and Mayor. This makes that document a unliteral offer by Mr. Polage, which the City can choose to either accept or deny. A

copy of that draft contract bearing Mr. Polage's advance signature is appended to, and is the subject of, the instant AIS.

Notably, the additional per-hour sums for work on trials and appeals within the new draft contract were (and are) the amounts that had been previously discussed with Mr. Polage back in 2022 (*i.e.*, \$90.00 per hour for trials subject to a daily cap of \$500.00, and \$65.00 per hour for appeals subject to a per-appeal cap of \$750.00) rather than the higher amounts that had been stated by Messrs. Gano and Polage during the in-person meeting in 2023. *See* attached proposed Contract for Indigent Defense Services, p.6, ¶¶2.2 & 2.3. Thus, as to the financial terms, only the flat monthly rate has changed/increased in comparison to the parties' 2022 discussions.

The contractual changes and concessions included in the now-under-consideration version of the contract – which serve the City's interests – are the following: (a) The contract's term was lengthened to run through the end of 2026, whereas the previously-discussed term was for two years and would have ended in roughly mid-2025. (b) The current draft contract specifies that Mr. Polage cannot terminate his engagement prematurely without consequence, and that liquidated damages in the amount of one thousand five hundred dollars (\$1,500.00) will apply on a per-case basis if the City is required to hire a replacement lawyer to handle cases if and when Mr. Polage might prematurely terminate his engagement. (c) The current draft contract specifies that Mr. Polage's flat monthly rate will be temporarily reduced or suspended whenever he, for any reason such as reaching his maximum number of allowed cases per year (which is 400 public defender cases at a municipal court), might be unable to accept all indigent cases at the City's municipal court during any month or months. The final point – (c) – could prove very significant and helpful for the City. The annual caseload at the City's municipal court continues to increase (which is partly addressed in a separate AIS presented on this date with regard to potentially adjusting the compensation the City pays to its prosecuting attorney). During 2024 and beyond, the number of annual cases could exceed the maximum number of cases (400) that any single public defender is legally allowed to accept. If so, the City will be required to separately engage one or more different public defenders to work on those "overflow" cases. In such event, the City can use the amounts "saved" from not paying Mr. Polage his customary flat monthly amount – for whatever period of time is applicable – in order to pay one or more different public defenders to handle the City's "overflow" cases toward the end of a calendar year. This sort of arrangement is not included in the City's contract with its existing public defender(s).

For the sake of completeness and also to put the above-specified fiscal impact into perspective, the concept of "conflict" cases should also be summarized. There are instances when a conflict of interest precludes a public defender from accepting a given case. This occurs from time to time, and the frequency varies based on the specific public defender(s) involved, the scope of their overall practice and their perspective as to what constitutes a conflict in general. The City's current public defender(s) have – for one reason or another – deemed themselves conflicted-out on a rather significant number of cases over recent years. In those situations, the City is forced to engage one or more different public defenders to work on the "conflict" cases – similar to the above-summarized possibility as to "overflow" cases. This sometimes costs the City significant sums, over and above the flat monthly rate that the City still pays to its regular public defender(s). A partial review of recent City vouchers indicates that at least \$17,188.50 has been paid to conflict attorneys since the start of 2022, for work on upwards of 25 cases. Thus, the City has not been simply paying a flat monthly rate of \$5,000.00 for public defense work – it typically has often been paying \$1,000.00-\$2,000.00 in addition per month for "conflict" attorneys. City

management is hopeful that fewer "conflict" cases will occur if Mr. Polage is granted a full-caseload assignment, because he is a sole practitioner with a narrow scope of practice and those facts lessen the likelihood of association-based conflicts and/or witness-based conflicts arising. Some "conflict" cases will surely arise if and when Mr. Polage takes over, and the City will still be required to engage and pay a separate attorney to handle those. But, again, the overall point of this paragraph is that the historical costs the City has been paying for "conflict" attorneys and the comparatively lower costs the City is anticipating to pay for such going forward are financial factors that should be kept in mind when evaluating the above-recited fiscal impact.

All things considered, City management believes that entering into a full-caseload engagement with Mr. Polage is the City's best option. Thus, City management is requesting the City Council's approval for the Mayor to sign the proposed fourteen-page Contract for Indigent Defense Services in the form appended hereto, which, again, has already been preliminarily signed by Mr. Polage.

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:
07/16/2015	Public Defender Contract (with Brumback law firm)
02/05/2016	First Amendment to Public Defender Contract (with Brumback law firm)
August 2022	Request for Qualifications and Proposals (seeking potential new public defender(s))
09/12/2022	Proposal by attorney Bryan Gillihan
10/11/2022	Proposal by attorney Daniel Polage
10/12/2022	Proposal by attorney Barry Woodard
01/17/2023	Letter by Brumack & Ottem
04/04/2023	Signature by attorney Daniel Polage on proposed Contract for Indigent Defense Services that is the subject of the instant AIS

RESOLUTION NO. 3002

RESOLUTION AUTHORIZING THE MAYOR TO SIGN A FOURTEEN-PAGE CONTRACT FOR INDIGENT DEFENSE SERVICES WITH ATTORNEY DANIEL B. POLAGE

WHEREAS, City management desires to engage attorney Daniel B. Polage as the City's new independent contractor public defense attorney for indigent criminal cases at the City's municipal court filed on after May 1, 2023; and

WHEREAS, a fourteen-page proposed Contract for Indigent Defense Services has been drafted and signed in advance by Mr. Polage, and

WHEREAS, City Management has requested the City Council's approval for the Mayor to also sign such Contract, and to authorize the Mayor to potentially deliver a fully-signed copy to Mr. Polage so as to establish and form a binding contractual relationship with a start date of May 1, 2023; and

WHEREAS, the City Council finds that good cause exists to grant such approval, and to authorize the Mayor to deliver a fully-signed copy of said Contract to Mr. Polage if and when the Mayor and City Attorney deem it to be in the City's best interest to do so;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor be and is approved to sign the fourteen-page Contract for Indigent Defense Services on the City's behalf, and, further, be and is authorized to deliver a fully-signed copy of such Contract to Mr. Polage – if and when the Mayor and City Attorney deem it to be in the City's best interest to do so – so as to establish and form a binding contractual relationship with a start date of May 1, 2023.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 11th day of April, 2023.

Sherry Raymond
Sherry Raymond, Mayor

ATTEST:

Dale E. Novobielski
Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Rob Case
Rob Case, City Attorney

CITY OF SELAH, WA

REQUEST FOR QUALIFICATIONS AND PROPOSALS

Public Defender Services

Application Deadline: Friday, October 14, 2022; 5:00 p.m.

Deliver Applications to: Treesa Morales, Human Resources Director
City of Selah, City Hall, 115 W. Naches Avenue, Selah, WA 98942
Email: Treesa.Morales@selahwa.gov

Application Type: Non-sealed

Type of Position: Independent Contractor (not direct employment) pursuant to written contract (other outside employment/engagement allowed)

Duration: Minimum commitment of three years

Anticipated Start Date: January 1, 2023

Compensation: Negotiable (paid on a 1099 basis; no benefits)

Narrative Description: The City of Selah (hereinafter "City") hereby solicits applications from licensed attorneys interested in providing public defender services for indigent defendants at the City's municipal court, as well as any appeals stemming therefrom at a different court. The City's municipal court handles gross misdemeanors and misdemeanors (but no felonies; it also handles infractions, but respondents on infraction cases are not entitled to public defender services even if the respondents are indigent).

As to compensation, the City is willing to consider applications based on a flat monthly rate, those based on a per-case rate, and those based on a flat monthly rate plus an additional amount for actual trial time. Compensation will be paid on a gross, 1099 basis; no benefits will be accrued or provided, and the City will not provide any office space, staff, technology, supplies or equipment. As to the caseload, the City is willing to consider applications for the entire indigent caseload and also those based on one-half of the caseload (thus, in other words, the City is willing to consider splitting the assignment and having two, separate contracted public defenders). As to applicants, the City is willing to consider applications from law firms and also those from sole practitioners (but, in either circumstance, the engagement will be non-assignable beyond the specific attorney(s) recited in the to-be-entered-into written contract). A written contract will be required.

Regular court sessions are held each Tuesday and typically conclude prior to noon. Trials occur on Thursdays. The caseload count varies based on many factors, but is not expected to exceed an average of twenty-five (25) cases per month. When a conflict occurs, the City will hire a separate attorney to represent the conflicted-out defendant(s). Similarly, if the yearly caseload count exceeds the maximum threshold per the state's Standards for Indigent Defense, the City will hire a separate attorney to handle the excess cases.

Applicants must be able to attend all court sessions; must be able to communicate regularly with the City's prosecuting attorney, court clerk, and municipal judge; and must be able to communicate with clients via phone, email and in-person meetings (including at the Yakima County jail, City of Yakima jail, and the jail in Sunnyside, WA – because the City utilizes all of those jails).

Minimum Qualifications: 1. Licensed attorney in good standing with the WSBA

2. Minimum three years' experience in criminal law or civil litigation
3. Extensive knowledge of and familiarity with state criminal statutes and court rules, the City's criminal code, and legal precedents from Washington and federal courts.
4. Malpractice insurance, with a minimum per-claim coverage amount of one million dollars (\$1,000,000.00).

Requested Information: Submitted applications should include, at a minimum, the following information: (a) name and WSBA bar number for each applicant; (b) office address, telephone number, and email address; (c) law firm name, if applicable; (d) description of previous experience representing defendants on criminal cases; (e) disclosure of any discipline imposed by any bar organization with regard to any applicant within the preceding ten years; (f) disclosure of any complaints lodged with any bar association with regard to any applicant within the preceding ten years; (g) disclosure of any legal malpractice claims assert against any applicant within the preceding ten years; (h) disclosure of any multilingual capacity or partial capacity, with a particular emphasis on Spanish; (i) list of three professional references that are not presently affiliated with any applicant; and (j) desired rate(s) of compensation and type(s) of compensation structure. Additional information may be provided, such as a resume or CV, school transcripts, list of representative cases, etc.

Disclosures by City: The chosen applicant(s) will be required to enter into a written contract with the City, the terms of which will be negotiated between the parties. The City retains discretion to reject any and all proposals. There is no guarantee, either expressed or implied, that award of a contract will be made to any applicant. Information supplied in response to this Request for Qualifications and Proposals will be potentially subject to public disclosure pursuant to one or more laws, including the state's Public Records Act, RCW Chapter 42.56. The City may perform interviews with selected applicants to clarify any information provided and to gauge perceived professionalism and capacity to perform. Any questions about this Request for Qualifications and Proposals should be directed to Rob Case, City Attorney, City of Selah, City Hall, 115 W. Naches Ave., Selah, WA 98942; (509) 698-7330; Rob.Case@selahwa.gov.

THE CITY OF SELAH ADHERES TO EQUAL OPPORTUNITY PRINCIPLES. APPLICANTS WILL BE EVALUATED BASED ON LEGAL METRICS AND ACTUAL QUALIFICATIONS, AND NOT BASED ON RACE, COLOR, NATIONAL ORIGIN, SEX, SEXUAL ORIENTATION, GENDER, GENDER IDENTITY, RELIGION, CREED, AGE LESSER THAN 40, MARITAL STATUS, FAMILY STATUS, RELATIONSHIP STATUS, VETERAN STATUS, ACTUAL OR PERCEIVED DISABILITY, AND/OR NECESSITY OF REASONABLE ACCOMMODATION(S). APPLICANTS OF COLOR AND/OR HISTORICALLY UNDERREPRESENTED MINORITIES ARE ENCOURAGED TO APPLY. THIS POSITION IS NOT AN EMPLOYMENT POSITION.



Public Defender Services

The City of Selah hereby solicits applications from licensed attorneys interested in providing public defender services for indigent defendants at the City's municipal court, as well as any appeals stemming therefrom at a different court.

[Please click here for more information, minimum qualifications and job details.](#)

Application deadline: Friday, October 14, 2022, 5:00pm

Please deliver applications to:
Teresa Morales, Human Resources, Director
City of Selah, City Hall, 115 W. Naches Ave.
Selah, WA 98942

Menu

- [Human Resources](#)
- [Employment Opportunities](#)
- [Employee Policies and Agreements](#)
- [Council Boards & Commissions](#)
- [Civil Service Commission](#)

Contact Information

Teresa Morales, HR Manager

Email:
teresa.morales@selahwa.gov

Phone:
(509) 698-7381

Address:
115 W. Naches Avenue
Selah, WA 98942

Office Hours:
8 am - 5 pm
Monday - Friday



Law Office of Daniel Polage

Attorney Licensed in Washington State / Phone: (509) 901-0608 / dplaw@outlook.com / watrafficlawyer.com

Treesa Morales, HR Director
City of Selah / City Hall
115 W. Naches Ave.
Selah, WA
Treesa.Morales@selahwa.gov

October 11, 2022

CITY OF SELAH
OCT 12 2022
Clerk-Treasurer

Re: Independent Public Defender Contract / Bid Submission

To the Court Administrator, (and/or representatives), for the City of Selah:

For your consideration in the selection process, I submit the following highlights of my experience and a bid proposal for my attorney services as an independent public defender for the City of Selah:

I am extremely well qualified for the position with nearly two decades of criminal law experience in Yakima County as both a deputy prosecutor and public defender servicing similar independent contracts for the Cities of Union Gap, Wapato, Grandview, Granger, and Selah Washington. I have won over fifty jury trials as a prosecutor and dozens as a criminal defender. Recently, I have over three year's direct experience working with the current City of Selah prosecutor, Margita Dorney. Should I to be selected for this contract, the City could expect the very efficient and amicable working relationship I have with the prosecutor to continue.

BID PROPOSAL

1. \$4500 per month flat fee to work a HALF CONTRACT to be split with another selected attorney.
 - a. Approximately 12 to 15 cases per month.
2. Jury Trial related expenses to be billed separately.
3. All other terms to be accepted/negotiated in line with current public defender contract.

Best regards,
/s/Daniel Polage, Esq.
WSBA#36034

Daniel Brian Polage

Licensed Attorney In Washington State

Phone: (509) 901-0608 Mailing Address: 810 S. 20th Avenue, Yakima, WA 98902 Email: dplaw@outlook.com

LEGAL EXPERIENCE

- Solo Criminal Attorney:** Law Offices of Daniel B. Polage 2012-2022
- Current contract Defender: Cities of Union Gap, Wapato, Grandview, Granger and Selah
 - Traffic Law (DUI, Speeding), Auto, Criminal, Civil Infractions
 - 100 + Jury Trials
- Special Deputy Prosecutor:** Yakima County / Yakima, WA 2009-2011
- Contract ITA/Mental Commitments at Yakima Valley Memorial Hospital Psych. Unit
- County Deputy Prosecutor:** Yakima County / Yakima, WA 2005 - 2009
- CRIMINAL and CIVIL divisions. Extensive, successful jury trial experience covering Criminal, Civil Commitments, Mental Health, Land Use, Abatements, Property Forfeitures, Juvenile Felonies. Investigation, case management and settlement of 60 to 80 cases per week. Extensive speaking, legal research and motion writing experience. Advanced to Corporate Counsel Division.
 - **Contract City Prosecutor:** City of Union Gap / Union Gap, WA 2006 - 2007
 - County appointed to provide frequent city attorney coverage for City of Union Gap, concurrent with Yakima County prosecuting duties.

ADMINISTRATION WORK EXPERIENCE

- Trust Officer:** Baker Boyer Bank / Yakima, WA 2012 – 2013
- Temp. administration and sales of family trusts. Limited legal management.
- Adjunct Faculty Instructor:** Pepperdine University / Malibu, CA (France) 2004 - 2005
- International Program's Instructor for: HUM 292, PE 199, GSGS 311 classes taught in France.
- Operations Coordinator:** AEA International SOS / Seattle, WA 1997 – 1999
- Executed multi-case management for the world's largest corporate medical assistance company.
 - Presented expatriate evacuation proposals to corporate medical and legal directors. Facilitated live telemedicine and legal counsel between staffed physicians, attorneys, and corporate expatriates.

EDUCATION AND MEMBERSHIPS

- Washington State Bar Association since 2004**
- WSBA No. 36034
- Pepperdine University School of Law, Malibu, California**
- J.D. and *Alternative Dispute Resolution (ADR) Certificates* / May, 2002
- Whitworth University, Spokane, Washington**
- B.A. / International Studies; Minor in French
 - *Student Council Senate Member; Dormitory President and Vice President*

SKILLS / LANGUAGES / INTERESTS

- Extended expatriate stays in England, France, Canada and Spain
- Fly-fishing, camping, skiing, boating, travel
- Musician



GILLIHAN LAW OFFICE

1111 WEST YAKIMA AVENUE
YAKIMA, WA 98902
TELEPHONE: (509) 698-3003
FAX: (509) 454-5011
E-MAIL: gillihanlaw@charter.net

September 12, 2022

To: Treesa Morales
Human Resources Director
City of Selah
115 West Naches Avenue
Selah, WA 98942

Re: Proposal for Public Defender Services for the City of Selah

Greetings:

My name is Bryan G. Gillihan, an attorney practicing in Yakima County, Washington. This letter is intended to inform the City that I am interested in the Public Defender Contract for the City of Selah.

I am currently a sole practitioner and my primary duties include providing criminal defense for indigent defendants charged in the Municipal Court of Yakima. Before I went into private practice I was a Supervising Senior Deputy Prosecuting Attorney for the Yakima County Prosecutor's Office. I was assigned as a line deputy to all units within the criminal division of the Prosecutor's Office. Eventually I was assigned to supervise the Juvenile Division. As supervisor I was responsible for overseeing the day to day running of the office, which included the training of new deputies transferring to the unit and managing all support staff. I also served as representative for the Prosecutor's Office during inter-office meetings on the development of new procedures and the plans of how to implement said procedures within the Juvenile Justice Center in Yakima County. As supervisor I was also involved in managing the representation of various school districts throughout the Yakima Valley.

Prior too, and while working my way through under-grad and law school I was a plumber. Both in San Diego, California, and here in Yakima. My duties as a plumber sent me into the homes of people from every background and socio-economic class. This experience has allowed me to develop the skill to communicate and relate to persons from all walks of life. As a Lead Journeyman I was responsible for the training of apprentice plumbers, bidding jobs, and running the office while the owners were unavailable. Furthermore, Yakima has a high percentage of Hispanic residents, and my language skills in Spanish would further facilitate the representation of individuals who have a limited understanding of the English language.

I have enclosed my resume. It includes my work history and references. As well as my educational background.

If chosen to provide Public Defender Services for the City of Selah I would bring over 20 years of criminal law experience, as well as having conducted more trials than I can remember. Coupled with my language skills, there is no situation that I would be unable to handle. However, I'm not so arrogant to think

CITY OF SELAH
SEP 13 2022
Clerk-Treasurer

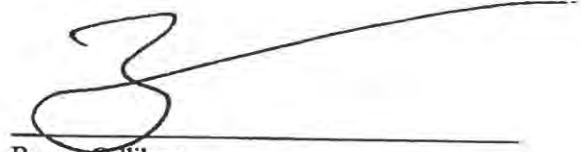
that I can do everything on my own, and, if needed, I have access to assistance in numerous forms. In preparation for submission of this proposal I have reviewed the contracts for public defender services for a couple of smaller communities surrounding Yakima. The case load/pay scale for the City of Union Gap when originally entered into provided \$12,000 a month for a total of 300 cases per year, or \$480 a case. The case load/pay scale for the City of Wapato is \$6000 a month for a total of 120 cases per year, or \$600 a case. Those amounts were when the contracts were first entered. What the pay scale is now after some time has passed is not known to me at this point.

To provide competent, dedicated, professional services for the City of Selah I will need \$540.00 per case, to be paid monthly. With the proposal being for 300 cases per year that would end up being \$162000 per year. The proposal indicated that the contract would be for a 3 year period, though I would prefer 5 years.

I've lived in Selah since 2004. I enjoy practicing in our local courts as it gives me a feeling of giving back to the community. Defense attorneys are generally not held up as heroes of the community, but we provide our part. It would be nice to be able to provide my services to members of my own community who maybe exercised poor judgment and got caught up in something that lead them to need my services.

All terms of this proposal are, of course, negotiable.

I hope that we can enter into a mutually beneficial relationship. Thank you for your consideration.


Bryan Gillihan
WSBA#32337

GILLIHAN LAW OFFICE, PLLC.
1111 WEST YAKIMA AVENUE YAKIMA WA, 98901
• PHONE: (509) 698-3003 • FAX (509)454-5011 • E-MAIL: GILLIHANLAW@CHARTER.NET

BRYAN G. GILLIHAN

Washington State Bar Number: 32337

WORK EXPERIENCE

2008-PRESENT

GILLIHAN LAW OFFICE

- *SOLE PRACTITIONER*

- Advisement of clients in all legal matters. Contract attorney for indigent defendants for the City of Yakima Municipal Court and for conflict cases from Selah Municipal Court. Civil Litigation. Estate Planning. Protection Order Petitions/Defense.

2003-2008

YAKIMA COUNTY PROSECUTING ATTORNEY'S OFFICE

- *SUPERVISING SENIOR DEPUTY PROSECUTING ATTORNEY*

- Supervision of the Juvenile Division of the Prosecuting Attorney's Office, including prosecution of all levels of criminal cases. Representation of the various school districts throughout Yakima County for truancy cases. Training and supervision of all Deputy Prosecuting Attorneys assigned to the Juvenile Division. Supervision of all support staff at the Juvenile Division. Inter-office management between departments, including the Clerk's Office, the Superior Courts, and the Juvenile Probation Department.

2002-2003

ROTO-ROOTER PLUMBERS

- *LEAD JOURNEYMAN*

- Supervision of apprentice plumbers. Bidding of potential plumbing jobs. General plumbing duties primarily focused on service and repair in residential and commercial job sites.

1988-2002

PLUMB HANDY

- *PLUMBER*

- General plumbing duties focused on service and repair and remodels of residential job sites.

1999

LAW OFFICES OF RICHARD RENKIN

- *INTERN*

- Research of legal issues, drafting of briefs, contact with clients concerning case status and gathering of pertinent information. Practice focused on Family Law and Civil Litigation.

EDUCATION

1997-2000

Thomas Jefferson School of Law
Juris Doctorate

San Diego, CA

1991-1997

San Diego State University
Bachelor of Arts in English

San Diego, CA

LANGUAGES

Moderate to semi-fluent language skills in conversational Spanish

PROFESSIONAL MEMBERSHIPS

2002-PRESENT

WASHINGTON STATE BAR ASSOCIATION

Member in good standing. License # 32337

PROFESSIONAL REFERENCES

Tim Hall
1111 West Yakima Ave.
Yakima, WA 98902
(509)452-8120

Richard Gilliland
1111 West Yakima Ave.
Yakima, WA 98902
(509)452-8120

The Honorable Kelley Olwell
Yakima Municipal Court Judge
200 South Second Street
Yakima, WA 98901
(509)952-8172

6:

BARRY M. WOODARD

ATTORNEY AT LAW
11 N. 11th Ave., Ste. 102
YAKIMA, WASHINGTON 98902

BARRY M. WOODARD

(509) 575-6500
FAX (509) 225-6382

October 12, 2022

CITY OF SELAH
OCT 12 2022
Clerk-Treasurer

Ms. Treesa Morales
Human Resources Director
City of Selah

Re: Public Defender Services

Dear Ms. Morales:

This letter is sent in response to your request for qualifications and proposals for the Public Defender services in Selah Municipal Court.

My Bar Number is 18627 and I have been a member of the Bar in good standing since 1989. I have had no complaints filed within the last 10 years. Our current address is listed at the head of this letter and we have been at the current location for the last three years. Our practice consists of about 90% criminal defense as well as some civil litigation. We do have access to a State Certified Interpreter and use her when its necessary to review Court documents, SOC's, pleas, etc.

With respect to your request for references, I would list the following:

1. Reed Pell, Attorney
2. Ulvar Klein, Attorney
3. Joe Brusic, Yakima Prosecuting Attorney

In reference to the compensation, it is my understanding that it will be necessary to attend Court each week at the regularly scheduled court time. Given that, we would respectfully request compensation in the amount of \$5,000.00 a month to handle the Public Defender services on a half contract basis.

October 12, 2022

Page 2

Any questions or concerns regarding the submission of this proposal, can be addressed to myself at your convenience. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Woodard", written over the word "Sincerely,".

Barry M. Woodard

BMW/as



BRUMBACK & OTTEM

PERSONAL INJURY • WORKERS' COMPENSATION • SOCIAL SECURITY DISABILITY

January 17, 2023

Honorable Sherry Raymond
Mayor, City of Selah
115 W Naches Ave.
Selah, WA 98942

Mr. Joe Henne
City Administrator, City of Selah
115 W Naches Ave.
Selah, WA 98942

RE: Public Defender Contract

Dear Mayor Raymond and Administrator Henne:

Brumback & Ottem, PLLC (formerly "Brumback Law Group") provides Public Defender services to the City of Selah (City) and has done so since 2015. We have appreciated the professional relationship with the City and wish to continue that service moving forward. In furtherance of that goal, we request the City Amend the Contract dated July 16, 2015 as modified by the First Amendment dated February 5, 2016, as set forth below.

As you are aware, we have provided Public Defender services for seven years at the monthly rate of \$5,000.00. Unfortunately, the market rate for attorneys providing criminal defense service has gone up considerably in that time frame. Caseloads for criminal defense attorneys are specifically limited to ensure United States and Washington Constitutional provisions are complied with. Thus, the number of clients any attorney can represent has shrunk as have the number of attorneys who perform this type of work. Inflation has taken a real toll on the cost of attorneys and staff. As a result, while we wish to continue our contractual relationship, we can no longer offer the service at a \$5,000/month rate.

Considering the market value of public defender costs, Brumback & Ottem would agree to continue our contractual relationship with the City with the following changes to the Public Defender Contract commencing March 1, 2023:

1. The compensation rate set forth in Paragraph 2 amended to \$8,500 per month.
2. The compensation rate set forth in Paragraph 3 amended to \$120 per hour with a cap of \$700 per day.
3. The compensation rate set forth in Paragraph 4 amended to \$120 per hour.
4. All references to "Brumback Law Group" amended to Brumback & Ottem, PLLC.

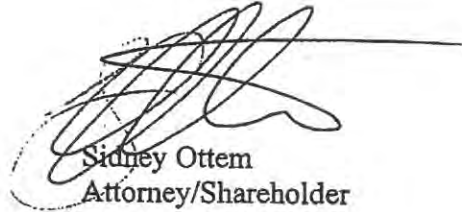
INJURY LAW

We value the opportunity to perform the Public Defender work for indigent defendants in Selah Municipal Court. The timely consideration of this request by the City is appreciated.

Sincerely,



Scott Brumback
Attorney/Shareholder



Sidney Ottem
Attorney/Shareholder

ADM.36.03
Issued 02/18

(PER CASE FIXED PRICE COMPENSATION FORMAT)

CONTRACT FOR INDIGENT DEFENSE SERVICES

WHEREAS, the City of _____, Washington (hereinafter "City") provides public defense services pursuant to contract for indigent defendants appearing before the _____ Municipal Court ("Municipal Court"); and

WHEREAS, the City has adopted standards for the provision of public defense services, and

WHEREAS, the City, wishes to engage the services of skilled criminal defense counsel to provide services to indigent defendants, NOW THEREFORE

In consideration of the mutual benefits to be derived and the promises contained herein, the City of _____, a Washington municipal corporation ("City") and _____ (the "Attorney") have entered into this Agreement.

1. Scope of Services, Standards and Warranty. The Attorney will provide indigent defense services in accordance with the standards adopted by the City of _____ by Resolution/Ordinance _____ (hereinafter "Standards"). These Standards are incorporated by this reference as if herein set forth. In the event the Standards adopted by the City are amended in order to incorporate changes required to conform to changes in Washington Supreme Court Rules or Standards or in the Washington State Bar Association Standards, the parties agree to reopen this Agreement in order to incorporate those changes and adjust the provisions of this Agreement, including compensation as needed to conform this Agreement to the Standards. The decision of the Honorable Robert S. Lasik in *Wilbur v. Mt. Vernon, et al*, details affirmative duties and obligations of the Attorney and ultimately the City. ("Decision") The Attorney individually warrants that he/she, and every attorney and/or intern employed by the Attorney to perform services under this contract, have read and are fully familiar with the provisions of the Washington Supreme Court rule, the Washington State Bar Association Standards, and the Standards adopted by the City. Compliance with these Standards and guidance provided by the Decision goes to the essence of this Agreement.

1.1 The Attorney and every attorney and/or intern performing services under this Agreement shall certify compliance with the Supreme Court Caseload Standards quarterly with the _____ Municipal Court on the form established for that purpose by court rule. A copy of each and every such certification shall be provided to the City contemporaneously with filing with the Municipal Court.

1.2 By way of illustration and not limitation, the Attorney has proposed compensation levels, staffing and infrastructure that provide the capacity and resources to meet the Standards including affirmative efforts to contact a client who fails to appear for an appointment and document those efforts.

1.3 The Attorney will maintain contemporaneous records on a daily basis in a format approved by the City. The Attorney will provide confirmation of continuing education courses in the area of criminal law and defense annually by December 31st. The Attorney will maintain and provide to the City all data, information and case files referenced in the Standards and this contract and any and all other information reasonably requested by the City or a successor, so long as consistent with the attorney-client privilege and any protective order entered by a court of competent jurisdiction. The Attorney shall promptly report a sustained disciplinary action by the Washington State Bar Association or a finding by a court of competent jurisdiction that an Attorney has been found to have provided ineffective assistance of counsel.

1.4 The Attorney will use a free "do not record" phone line to contact incarcerated indigent defendants and take reasonable measures consistent with local practice to ensure confidentiality of contacts with incarcerated defendants.

1.5 The Attorney shall, with respect to any jail or other incarceration facility in which an assigned defendant is incarcerated:

1.5.1 Review forms from the jail or other incarceration facility to assure that they accurately advise clients whether written communications are confidential; and

1.5.2 With reference to any indigent defendant client being held in an out-of-county jail or other incarceration facility, determine what arrangements have been made to allow clients to maintain confidential communications with their attorney and timely notify the City if no such arrangements are in place.

1.6 The Attorney shall maintain client complaints regarding his services received in a log as well as in the client's file and shall follow up on complaints within three (3) court days. Copies of the complaint log shall be provided to the City on a quarterly basis or upon its request on the form developed by the City. The Attorney shall cooperate to the full extent consistent with preservation of the attorney-client privilege and any protective order, with review of Complaints by the City or other outside resource contracted with by the City to review the Attorney's performance under this contract.

1.7 The Attorney warrants that his/her compensation, reflected in Section 2 Compensation, reflects all infrastructure, support, administrative services, and systems necessary to comply with the Standards.

1.8 Each and every Attorney providing services under this Agreement shall earn at least seven (7) CLE credits per year in areas relevant to the criminal law, as well as misdemeanor or public defense practice. The Attorney shall document training annually by providing the City with a list of all trainings attended by Attorney and staff during each year of the contract. Any training which results in a CLE credit shall be so designated showing the CLE credit given for such training.

1.9 The Attorney shall implement a system to collect the following information, ("Data Points"). The information gathered shall include:

1.9.1 the number of cases assigned to each Attorney authorized as a service provider each month, with the year-to-date total;

1.9.2 the number of closed cases in which expert services were requested;

1.9.3 the number of closed cases in which interpreter services requested, either in court or for utilization by the Attorneys;

1.9.4 the number of closed cases in which an investigator was used;

1.9.5 the number of closed cases in which substantive motions were filed;

1.9.6 the number of closed cases which were tried by a jury, by a judge, or in which charges were dismissed or significantly reduced on the day of trial;

1.9.7 the number of cases which were resolved by the dismissal of the charges, a significant reduction in charges or dismissal of other cases with a plea on the remaining case(s);

1.9.8 the number of appeals and/or writs;

1.9.9 the number of attorneys and investigator hours per closed case; and

1.9.10 the number of other criminal and civil cases handled in the calendar year. Information relating to the complexity of any civil matter and time billed will be provided.

1.10 The parties will communicate regularly regarding the information collected both under this Agreement and pursuant to the other Data Points. The parties will calendar meetings at least annually as may be necessary to review the data collected and its significance. Attorney agrees to cooperate and communicate with the City to the full extent consistent with preservation of the attorney/client privilege.

1.11 The Attorney shall provide counsel to defendants at arraignment and preliminary appearances regardless of whether they have been screened.

1.12 The Attorney's preparation and appearance at arraignment and status calendars where the Attorney appears without a case assignment shall be counted at 0.22 case per hour in determining case counts and compensation review under Section 2.6.

2. Compensation. Effective January 1, _____, the City shall pay the Attorney for services rendered under this contract the sum of _____ (\$_____) per month to reflect an annualized case count of up to _____ (_____) cases at _____

_____ (\$____) per case. For the initial term, Attorney will be prepared to handle up to (____) cases.

The compensation amount represents the salary and benefits necessary to the Attorney performing anticipated work on _____ (____) assigned cases and all infrastructure, support, and systems necessary to comply with the Standards. As provided in Section 2.6 and its sub-paragraphs below, the parties will periodically review staffing in light of changes in court rule and case load, if any. The parties believe that they have provided sufficient capacity to ensure that, in all respects and at all times, public defense service will comply with the Standards with an adequate reserve capacity for each attorney. The Attorney additionally agrees and promises that he/she will devote his/her full effort to the performance of this Agreement and will undertake no private practice of law or other public defense contract that would impede his/her ability to perform under this Agreement.

2.1 Case Counts. Based upon case counts maintained by Attorney and reviewed by the City, current estimates for annual case counts for all indigent cases filed by the City is approximately _____ (____) to _____ (____) cases or about _____ (____ to ____) cases per quarter. As provided in the Standards, the case counts also include the Attorney's appearance at all arraignment calendars. (See Section 1.11 and 1.12 above). The terms "case" and "credit" shall be defined as provided in the Standards. The City has adopted an unweighted case count.

2.2 Adjustment; Internal Allocation. As provided in the Standards, compensation may be revised upwards. Upon the Attorney's request, the City shall review any particular case with the Attorney to determine whether greater compensation should be assigned, and upward revisions shall not be unreasonably refused.

2.3 Base Compensation. Except as expressly provided in Section 2.4 and 2.5, the cost of all infrastructure, administrative support and systems, as well as standard overhead services necessary to comply with the established standards is included in the base payment provided in Section 2.1 above.

2.4 Payments in Addition to the Base Compensation. The City shall pay for the following case expenses when approved by the Municipal Court from funds available for that purpose. Unless the services are performed by the Attorney's staff or paraprofessional subcontractors, such as translator(s) or investigator(s), non-routine expenses include, but are not limited to:

- 2.4.1 medical and psychiatric evaluations;
- 2.4.2 expert witness fees and expenses;
- 2.4.3 interpreters;
- 2.4.4 polygraph, forensic and other scientific tests;
- 2.4.5 a computerized or other legal research which is not typically maintained as a part of defense counsel legal libraries or research capabilities;
- 2.4.6 investigation expenses; and

2.4.7 any other expenses the Municipal Court finds necessary and proper for the investigation, preparation, and presentation of a case.

2.5 The City shall pay or reimburse the following:

2.5.1 Lay Witness Fees. Lay witness fees and mileage incurred in bringing defense witnesses to court, including but not limited to, salary or expenses of law enforcement officers required to accompany incarcerated witnesses;

2.5.2 Copying Client's Files. The actual cost of providing one copy of a client's or former client's case file upon client's or client's appellate, post-conviction relief or habeas corpus Attorney's request, or at the request of counsel appointed to represent the client when the client has been granted a new trial;

2.5.3 Copying Direct Appeal Transcripts Supreme Court Rules for the Administration of Courts of Limited Jurisdiction RALJ Appeals. The actual cost of preparing and making copies of direct appeal transcripts for representation in post-conviction relief cases;

2.5.4 Records. To the extent such materials are not provided through discovery, the cost of acquiring medical, school, birth, DMV, and other similar records, and 911 and emergency communication recordings and logs; and

2.5.5 Process Service. The normal, reasonable cost for the service of a subpoena.

2.5.6 [Optional] Defender Data. The actual cost, not to exceed Three Dollars (\$3.00) per case, to utilize the Defender Data reporting system. A one-time Fifty Dollar (\$50) reimbursement will be paid for the cost of setting up the reporting system.

2.6 Review and Renegotiation.

2.6.1 Due to Increases or Decreases in Caseload. The City and the Attorney shall, at the option of either party, renegotiate this contract if there is a significant increase or decrease in the number of cases assigned. "Significant" shall mean a change of more than ten percent (10%) in the number of cases assigned. If cases are estimated to approach or exceed _____ (_____) cases per year or _____ (_____) cases per quarter, the parties may renegotiate this contract to increase case coverage and compensation to the Attorney. At the request of either party, the City and the Attorney will periodically review case assignment trends, requests for additional credits and any other matters needed to determine contract compliance or necessary contract modifications. The Attorney shall promptly notify the City when quarterly caseloads require use of overflow or conflict counsel to assure that cases assigned to the Attorney remain within the limits adopted in this contract and comply with state and local standards.

2.6.2 Renegotiation Due to Change in Rule or Standard. This contract may be renegotiated at the option of either party if the Washington State Supreme Court significantly modifies the Standards for Indigent Defense adopted pursuant to the Court rule.

2.6.3 Review of Contract Extension. On or before August 1, _____, unless this Agreement has been terminated as provided herein, the Attorney will give the City a proposal for a two (2) year extension provided for in Section 3. The City shall respond by November 31, _____. With the mutual agreement of the parties, compensation and other contract terms may be adjusted for future years.

3. Term. The term of this Agreement shall be from January 1, _____ through December 31, _____, unless sooner terminated as provided herein. The Agreement may be extended for one (1) additional two (2) year term at the mutual agreement of the parties.

3.1 For Cause. This Agreement may be terminated for cause for violation of any material term of this Agreement. "Material term" shall include any violation indicating a failure to provide representation in accordance with the rules of the court and the ethical obligations established by the Washington State Bar Association, a violation of the Standards or the provisions of Section 6 relating to insurance, conviction of a criminal charge, and/or a finding that the license of the Attorney, or any attorney providing service under this Agreement, has been suspended or revoked. Any violation of the other provisions of this Agreement shall be subject to cure. Written notice of contract violation shall be provided to the Attorney who shall have thirty (30) business days to correct the violation. Failure to correct the violation will give rise to termination for cause at the City's discretion. In lieu of terminating this contract, the City may agree in writing to alternative corrective measures.

3.2 Termination on Mutual Agreement. The parties may agree in writing to terminate this contract at any time. Unless otherwise agreed to in writing, termination or expiration of this contract does not affect any existing obligation or liability of either party.

3.3 Termination on Cessation of the Municipal Court. In the event that the City in its sole discretion chooses to terminate its Municipal Court, this Agreement shall expire following one (1) year written notice by the City to the Attorney.

3.4 Obligations survive Termination. In the event of termination of this Agreement, the following obligations shall survive and continue:

3.4.1 Representation. The compensation established in this Agreement compensates the Attorney for services relating to each and every assigned case. Therefore, in the event this Agreement is terminated pursuant to Sections 3.2 and 3.3 above, the Attorney will continue to represent clients on assigned cases set for trial to be held within sixty (60) days of the date of termination until a case is concluded on the trial court level or the client fails to appear for a scheduled court appearance. The Attorney will continue to represent clients in post-conviction proceedings and will be compensated at the rate of _____ (\$____.00) per hour for preparation and attendance at any hearing or other post-conviction proceeding for a minimum of one (1) year or such other term as the parties shall agree. The Attorney will reasonably cooperate with newly appointed counsel on case reassignment in fulfillment of his/her ethical obligations. This subsection shall not apply in situations in which the attorney is physically or mentally unable

to perform, voluntarily suspends his/her license to practice law or is suspended or disbarred from the practice of law.

3.4.2 The provisions of Sections 1 and 5, as well as this subsection 3.4 survive termination as to the Attorney. The City shall remain bound by the provisions of Section 2.4 and its subsections with respect to additional costs incurred with respect to cases concluded after the termination of this contract.

4. Nondiscrimination. Neither the Attorney nor any person acting on behalf of the Attorney shall, by reason of race, creed, color, national origin, sex, sexual orientation, including gender identity, honorably discharged veterans or military status, or the presence of any sensory, mental, or physical disability, HIV/AIDS and Hepatitis C status, or the use of a trained guide dog or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates, or in the provision of services under this Agreement.

5. Indemnification.

5.1 The Attorney agrees to hold harmless and indemnify the City, its officers, officials, agents, employees, and representatives from and against any and all claims, costs, judgments, losses, or suits including Attorney's fees or awards, and including claims by Attorney's own employees to which the Attorney might otherwise be immune under Title 51 arising out of or in connection with any willful misconduct or negligent error, or omission of the Attorney, his/her officers or agents.

5.2 It is specifically and expressly understood that the indemnification provided herein constitutes the waiver of the Attorney's waiver of immunity under Title 51 RCW solely for the purposes of this indemnification. The parties have mutually negotiated this waiver.

5.3 The City agrees to hold harmless and indemnify the Attorney, his/her officers, officials, agents, employees, and representatives from and against any and all claims, costs, judgments, losses, or suits including the Attorney's fees or awards, arising out of or in connection with any willful misconduct or negligent error or omission of the City, its officers or agents.

5.4 This clause shall survive the termination or expiration of this Agreement and shall continue to be in effect for any claims or causes of action arising hereunder.

6. Insurance. The Attorney shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or property which may arise from or in connection with the performance of work hereunder by the Attorney, or the agents, representatives, employees, or subcontractors of the Attorney.

6.1 Minimum Scope of Insurance. The Attorney shall obtain insurance of the types described below, naming the City as additional named insureds:

6.1.1 General Liability with a minimum limit of liability of \$2,000,000 combined single limit each occurrence bodily injury and property damage.

6.1.2 Automobile Liability covering owned and non-owned vehicles with a minimum limit of liability of \$1,000,000 combined single limit each occurrence bodily injury and property damage.

6.1.3 Professional Liability (Errors and Omissions) for Attorney with a minimum limit of liability of \$1,000,000 per claim and \$2,000,000 aggregate.

6.1.4 Workers' Compensation per statutory requirements of Washington industrial insurance RCW Title 51.

6.2 Verification of Coverage. The Attorney shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Service Provider before commencement of the work. Policies shall provide thirty (30) days written notice of cancellation to the City. The Public Defender shall provide the City with proof of insurance for "tail coverage" no later than December 31 of the year of termination of the Contract. The purpose of "tail coverage" is to provide insurance coverage for all claims that might arise from occurrences during the term of the Contract or extension(s) thereof, but not filed during the term of the Contract.

7. Work Performed by the Attorney. In addition to compliance with the Standards, in the performance of work under this Agreement, the Attorney shall comply with all federal, state and municipal laws, ordinances, rules and regulations which are applicable to Attorney's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

8. Work Performed at the Attorney's Risk. The Attorney shall be responsible for the safety of its employees, agents, and subcontractors in the performance of work hereunder, and shall take all protections reasonably necessary for that purpose. All work shall be done at the Attorney's own risk, and the Attorney shall be responsible for any loss or damage to materials, tools, or other articles used or held in connection with the work. The Attorney shall also pay his/her employees all wages, salaries and benefits required by law and provide for taxes, withholding and all other employment related charges, taxes or fees in accordance with law and IRS regulations.

9. Personal Services, No Subcontracting. This Agreement has been entered into in consideration of the Attorney's particular skills, qualifications, experience, and ability to meet the Standards incorporated in this Agreement. Therefore, the Attorney has personally signed this Agreement below to indicate that he/she is bound by its terms. This Agreement shall not be subcontracted without the express written consent of the City and refusal to subcontract may be withheld at the City's sole discretion. Any assignment of this Agreement by the Attorney without the express written consent of the City shall be void.

10. Modification. No waiver, alteration or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by the duly authorized representatives of the City and the Attorney. With the approval of the City, an additional attorney may be added to this Agreement by adding his or her signature to these agreements.

11. Entire Agreement; Prior Agreement Superseded. The written provisions in terms of this Agreement, together with any exhibit attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statement(s) shall not be effective or construed as entering into or forming a part of, or altering in any manner whatsoever, this Agreement. Upon execution, this Agreement shall supersede any and all prior agreements between the parties.

12. Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in the Agreement or such other address as may be hereinafter specified in writing:

CITY:

ATTORNEY:

13. Nonwaiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of such covenants, agreements, or options and the same shall be and remain in full force and effect.

14. Resolutions of Disputes, Governing Law. Should any dispute, misunderstanding or conflict arise as to the terms or conditions contained in this Agreement, the matter shall be referred to the Contract Administrator, whose decision shall be final. Nothing herein shall be construed to obligate, require or permit the City, its officers, agents, or employees to inquire into any privileged communication between the Attorney and any indigent defendant. In the event of any litigation arising out of this Agreement, the prevailing party shall be reimbursed for reasonable Attorney's fees from the other party. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington and the rules of the Washington Supreme Court as applicable. Venue for an action arising out of this Agreement shall be in Whatcom County Superior Court.

IN WITNESS WHEREOF, the parties have executed this Agreement on the _____ day of _____, 20____.

CITY OF _____

By: _____
Mayor/City Manager

ATTEST/AUTHENTICATED:

By _____
City Clerk

APPROVED AS TO FORM:
OFFICE OF CITY ATTORNEY

By: _____

ATTORNEY

By: _____

EXHIBIT A

The undersigned Attorney hereby personally warrant and certify that as a condition of their performance of this Agreement, they will commit to providing the services under this Agreement in accordance with the Standards set forth in sections 1, 4, and 7, and that the Attorney's personal warranty of that performance shall survive the Agreement in accordance with subsection 3.4 of this Agreement.

ATTORNEY: _____
Print Name

CONTRACT FOR INDIGENT DEFENSE SERVICES

WHEREAS, the City of Selah, Washington (hereinafter "City") operates a municipal court and provides public defense services for indigent defendants on gross misdemeanor and/or misdemeanor criminal cases pending before such court, and also for appeals and writs stemming from such cases; and

WHEREAS, the Washington Supreme Court has adopted standards for indigent defense for cases pending in Washington courts, with Criminal Rule for Courts of Limited Jurisdiction (CrRLJ) 3.1 specifying the standards that apply for cases pending before a municipal court such as Selah's municipal court; and

WHEREAS, the City desires to engage – consistent with such applicable standards – the services of skilled criminal defense counsel to provide services for indigent defendants on criminal cases pending before Selah's municipal court; and

WHEREAS, attorney Daniel B. Polage, WSBA #36034 (hereinafter "Public Defender") is a skilled criminal defense attorney who has been actively engaged in the practice of law since the year 2005 and has previously represented defendants on numerous criminal cases including, but not limited to, cases of the types that are adjudicated by Selah's municipal court and also appeals and writs stemming from those cases;

NOW THEREFORE, in consideration of the mutual benefits to be derived and the promises contained herein, City and Public Defender have entered into this Contract for Indigent Defense Services (hereinafter "Contract").

1. Scope of Services, Standards and Warranty. Public Defender will provide indigent defense services in accordance with the standards established by CrRLJ 3.1 as now existing or later amended, and also in accordance with any additional or different standards as the Washington Supreme Court and/or Washington State Bar Association may promulgate as applicable to the types of criminal cases that are adjudicated by Selah's municipal court. In addition, the decision of the Honorable Robert S. Lasik in *Wilbur v. Mt. Vernon, et al*, further details and explains the affirmative duties and obligations of Public Defender and, also, ultimately the City. All such standards, duties and obligations (hereinafter "Standards") are incorporated into this Contract by this reference as if fully set forth within this paragraph. Public Defender individually warrants and promises that he has read and become fully familiar with the Standards and, likewise, that every attorney and/or intern employed or engaged by Public Defender to provide any services under this Contract on a temporary or "cover" basis in lieu of Public Defender during any instance or brief period when Public Defender is unavailable will likewise have read and become fully familiar with the Standards. Compliance with and satisfaction of the Standards go to the essence of this Contract.

1.1 Public Defender and every attorney and/or intern performing services under this Contract shall certify compliance with the Washington Supreme Court Caseload

Standards on a quarterly basis by filing a "Certification of Compliance" (in substantially the form set forth under Standard 15-18 of CrRLJ 3.1) with the Selah municipal court. In addition, a copy of each filed Certification shall also be provided to the City Attorney (who currently is attorney D. R. (Rob) Case, WSBA #34313).

1.2 By way of illustration and not limitation, Public Defender has proposed compensation levels, staffing and infrastructure that provide the capacity and resources to meet the Standards including, but not limited to, affirmative efforts to contact a client who fails to appear for an appointment or court date and documenting such efforts.

1.3 Public Defender will maintain contemporaneous records on a daily basis. Public Defender will provide confirmation of continuing education courses completed each year, if any, in the areas of criminal law, criminal procedure and criminal defense annually by December 31st to the City Attorney (who currently is attorney D. R. (Rob) Case, WSBA #34313). Public Defender will maintain and provide to City upon request all data, information and case files referenced in the Standards and/or in this Contract, and any and all other information reasonably requested by City, provided however and only to the extent that such requested data, information, case files and other information can be provided without invading or compromising the attorney-client privilege held by any of Public Defender's client(s) and can be provided without violating any protective order(s) entered by a court of competent jurisdiction. Public Defender shall promptly report a sustained disciplinary action by the Washington State Bar Association or a finding by a court of competent jurisdiction indicating that Public Defender or any attorney and/or intern providing services under this Contract has or have been found to have provided ineffective assistance of counsel.

1.4 Public Defender will use a free "do not record" telephone line to contact assigned clients and will take reasonable measures consistent with local practice to ensure confidentiality of contacts with assigned clients.

1.5 Public Defender shall, with respect to any jail or other incarceration facility in which an assigned client is incarcerated:

1.5.1 Review forms from the jail or other incarceration facility to assure that they accurately advise the client as to whether written communications are confidential; and

1.5.2 With reference to any client being held in an out-of-county jail or other incarceration facility, determine what arrangements have been made to allow the client to maintain confidential communications with his/her attorney(s), and then timely notify the City if such arrangements are not in place.

1.6 Public Defender shall maintain client received complaints regarding his services or those of any other attorney and/or intern providing services under this Contract, both in a log and also in the corresponding client's case file. Public Defender shall follow up on such complaints within three (3) court days, if possible. Copies of the complaint log shall be provided to the City on a quarterly basis or more frequently whenever City requests, provided however and only to the extent that the information can be provided without invading or compromising the attorney-client privilege held by any of Public Defender's client(s) and can be provided without violating any protective order(s) entered by a court of competent jurisdiction.

1.7 Public Defender warrants that his compensation, reflected in Section 2 and its subparts below, reflects and suffices to pay for all infrastructure, support, administrative services, and systems necessary to comply with the Standards.

1.8 Public Defender and every attorney and/or intern performing services under this Contract shall complete a sufficient number of continuing legal education (CLE) credits each three-year period to maintain compliance with the Washington State Bar Association minimum licensing renewal requirements.

1.9 Public Defender shall implement a system to collect the following information (hereinafter "Data Points"):

1.9.1 The total number of cases assigned to Public Defender under this Contract each month, with a year-to-date total;

1.9.2 The number of cases that were assigned to Public Defender under this Contract and later closed/completed by Public Defender on which the Public Defender requested or obtained the services of a consulting expert witness and/or testifying expert witness, if any;

1.9.3 The number of cases that were assigned to Public Defender under this Contract and later closed/completed by Public Defender on which the Public Defender requested or obtained the services of an interpreter for either preparation work or in-court work, if any;

1.9.4 The number of cases that were assigned to Public Defender under this Contract and later closed/completed by Public Defender on which Public Defender requested or obtained the services of an investigator, if any;

1.9.5 The number of cases that were assigned to Public Defender under this Contract and later closed/completed by Public Defender on which Public Defender filed at least one substantive motion, if any;

1.9.6 The number of cases that were assigned to Public Defender under this Contract and later closed/completed by Public Defender that were tried by a jury, tried by a judge, or in on which charges were dismissed or significantly reduced on or near the start of trial, each if any;

1.9.7 The number of cases assigned to Public Defender under this Contract that were resolved by the dismissal of charges, a significant reduction in charges, or dismissal of other cases with a plea on the remaining case(s), each if any;

1.9.8 The number of cases assigned to Public Defender under this Contract on which an appeal or writ occurred, each if any;

1.9.9 The number of hours worked by Public Defender and worked by any investigator on each case assigned to Public Defender under this Contract and later closed/completed by Public Defender; and

1.9.10 The number of other criminal and civil cases handled by Public Defender outside of this Contract, if any, with information relating to the complexity of any civil cases and the hours worked thereon being provided upon reasonable request by City.

1.10 The parties will use these Data Points to ensure that Public Defender's caseload is not excessive or violative of the Standards.

1.11 Public Defender shall provide counsel to and preliminary representation of assigned defendants at arraignment and preliminary appearances regardless of whether the defendants have been screened. The court's regular docket for arraignments and preliminary hearings currently occurs on Tuesday mornings. Selah Municipal Code section 1.50.029 empowers the City Council to potentially change the court's regular docket day. If such a change occurs, Public Defender shall be responsible for handling arraignments and preliminary appearances on whatever new day may be designated. In addition, Public Defender shall provide counsel to and general representation of assigned and screened defendants during court motion days and trial days, and also on any appeals or writs stemming from the cases.

1.12 Public Defender shall be appointed as counsel and shall represent defendants on all indigent defense cases filed at Selah's municipal court on or after the effective date of this Contract through the date that this Contract terminates, and the appeals and writs stemming from such cases; provided however, if during any calendar year Public Defender reaches his maximum legally-allowable case count total and thus becomes precluded from accepting additional indigent cases on behalf of City for the remainder of that specific calendar year, then indigent defense cases during the remainder of that specific calendar year shall be assigned to a different public defender who has a separate contractual

relationship with City and Public Defender's monthly base compensation (as established by Section 2.1 below) shall be temporarily reduced or suspended by the number of weeks or months during which Public Defender is unable to continue accepting indigent cases on behalf of City (as established by Section 2.1.1 below).

1.13 In the event that a conflict prevents Public Defender from representing or continuing to represent a defendant, the representation of that defendant shall be transferred to a different public defender who has a separate contractual relationship with City. In the event that all contracted public defenders are precluded from representing a defendant due to one or more conflicts, City will separately engage a different defense attorney to represent that defendant on a one-time basis.

1.14 The parties believe that they have provided sufficient capacity to ensure that, in all respects and at all times, public defense services will comply with the Standards while still enabling an adequate reserve capacity for each contracted public defender.

1.15 Public Defender agrees and promises that he will devote sufficient effort and hours of service to fulfill performance under this, and that Public Defender will not undertake any private practice or other public defense work that would impede him from giving sufficient attention to and effort on cases assigned to him under this Contract.

1.16 After accepting a case and appearing as of record, Public Defender shall be obligated to continue representing the defendant and to continuing working on the case until the case is completed, unless Public Defender is required to withdraw due to a conflict of interest arising or due to Public Defender being disbarred, suspended from the practice of law, or becoming unable to practice law due to disability.

1.17 As provided in the Standards, the case counts also include Public Defender's appearance at all arraignment calendars. The terms "case" and "credit" shall be defined as provided in the Standards. The City has adopted an unweighted case count.

1.18 This Contract may be renegotiated at the option of either party if the Washington State Supreme Court significantly modifies the Standards. No party shall be required to agree to any proposal or offer; rather, as stated, the parties may negotiate.

2. Compensation & Reimbursement. Effective May 1, 2023, City shall pay and reimburse Public Defender for services rendered under this Contract as follows:

2.1 Base Compensation. As base compensation, payment of a flat fee of nine thousand dollars and no cents (\$9,000.00) gross per month (unless a temporary reduction or suspension becomes applicable, per Section 2.1.1 below).

2.1.1 Potential Temporary Reduction or Suspension of Base Compensation. Public Defender's base monthly compensation (as established by

Section 2.1 above) shall be temporarily reduced or suspended if Public Defender for any reason including but not limited to Public Defender reaching his maximum legally-allowable case count total for a given calendar year, becomes unable to accept all indigent defense cases on behalf of City during any portion of a given calendar year. More specifically, if Public Defender is able to accept some but not all indigent cases during a given calendar month, then Public Defender's base compensation for that specific calendar month shall be reduced by a pro rata amount calculated by percentage of cases filed during that month that he did accept versus and the percentage of cases filed during that month that he did not accept. In addition or the alternative, if Public Defender is unable to accept any cases at all that are filed during a given calendar month or during multiple calendar months, then Public Defender's base compensation shall be fully suspended for that month or those months. Once Public Defender is again able to accept and does accept all indigent cases filed during a given calendar month, any previous reduction or suspension of his base monthly compensation shall conclude and he shall again be entitled to his full base monthly compensation going forward (but not any catch-up of any previous reduction or suspension). No reduction or suspension shall apply when Public Defender might, from time to time, briefly engage a stand in attorney to cover for Public Defender during any date on which Public Defender is ill, is away on vacation or is otherwise temporarily unable to perform work while still be licensed and allowed to practice law.

2.2 Additional Compensation for In-Court Trial Time. As additional compensation, payment of at additional rate of ninety dollars and no cents (\$90.00) gross per hour for in-court trial time, if any, on any assigned case, up to a maximum of five hundred dollars and no cents (\$500.00) per day.

2.3 Additional Compensation for Work on Appeals or Writs. Also as additional compensation, payment at an additional rate of sixty-five dollars and no cents (\$65.00) gross per hour for work on appeals or writs, if any, up to a maximum of seven hundred fifty dollars and no cents (\$750.00) per appeal or writ.

2.4 Public Defender shall be an independent contractor and thus shall be paid and reimbursed on a 1099 basis, rather than a W-4/W-2 basis. Also, Public Defender shall not be eligible for or receive any overtime, comp time, retirement accrual, vacation or paid leave accrual, sick leave accrual, longevity pay, or other fringe benefits.

2.5 Reimbursement of the following case expenses when actually incurred by Public Defender, necessary for Public Defender's work on a case, not directly paid by the court from funds it possesses or has available, not performed by Public Defender's own staff, and supported by an underlying invoice from the service provider with Public Defender submitting a copy thereof to City:

2.5.1 Reasonable expenses for medical and psychiatric evaluations;

- 2.5.2 Reasonable expenses for lay and expert witness fees and mileage;
- 2.5.3 Reasonable expenses for interpreters;
- 2.5.4 Reasonable expenses for polygraph, forensic and other scientific tests;
- 2.5.5 Reasonable expenses for computerized or other legal research that is not typically maintained as part of a defense attorney's regular law practice;
- 2.5.6 Reasonable expenses for investigation services;
- 2.5.7 Reasonable expenses that the court finds are necessary and proper for work on a case;
- 2.5.8 Reasonable expenses to acquire copies of medical records, birth records, school records, DMV records, 911 and police records, emergency records, and other similar materials, to the extent such items are not provided by the court or prosecution;
- 2.5.9 Reasonable expenses to prepare and make copies of a court file and case transcript as part of work on an appeal or writ, to the extent such items are not provided by the court or prosecution; and
- 2.5.10 Reasonable expenses to effectuate service of subpoenas.

2.6 Other than the items listed in Sections 2.5.1 through 2.5.10 above, the City will not pay for or reimburse any other expenses or costs to Public Defender.

2.7 Public Defender will be paid and reimbursed on approximately a monthly basis, following Public Defender's work during a given month and submission of a corresponding itemized invoice for that month (including any compensation earned for in-court trial time and/or work on appeals or writs) to the City's Clerk-Treasurer (who currently is Dale Novobielski). By way of example, payment and reimbursement for work performed and expenses incurred during the month of June will occur likely sometime during July, after Public Defender has performed the work and incurred the expenses during June and then submitted a corresponding itemized invoice for such work. Payment will occur, as stated, on "approximately a monthly basis" because the City cannot commit to a precise payment schedule and instead needs a slight degree of flexibility because the City Council must approve the payment of each specific invoice during a regularly-scheduled meeting, there are typically only twenty-two (22) such meetings annually, and the work schedules and staffing levels of the City are such that received invoices are sometimes not presented to the City Council for several weeks after they are received.

3. Original Term, Potential Renewal Terms; Potential Termination or Extension; Procedure for City's Agreement to Extension. The original term of this Contract shall be from May 1, 2023 through December 31, 2026, unless sooner terminated or sooner extended as provided herein. Absent a sooner termination, this Contract shall automatically extend for a subsequent one-year renewal term upon expiration of the original term, and, likewise, it shall automatically extend for an additional successive one-year renewal term upon expiration of each prior renewal term absent a sooner termination. Any term, the number terms and duration of terms may be

extended by mutual agreement of the parties; such agreement by the City must occur via a written Resolution approved via the affirmative vote of at least a majority of the whole membership of the City Council and also one of the following: (a) a corresponding approval signature on such Resolution by the Mayor or by the Mayor Pro Tem in the Mayor's absence, with such signature occurring within ten days of the City Council's vote; (b) the passage of ten days after the City Council's vote without any notice of veto by the Mayor or by the Mayor Pro Tem in the Mayor's absence; or (c) the City Council's reconsideration and reaffirmation of the Resolution via the affirmative vote of at least a majority plus one of the whole membership of the City Council, with such vote occurring within thirty (30) days of the date that a prior veto by the Mayor or by the Mayor Pro Tem in the Mayor's absence took effect.

3.1 Termination Upon Cessation of Municipal Court. In the event that the City in its sole discretion chooses to terminate its municipal court, the then-existing term of this Contract shall conclude as of the latter ninety (90) days following written notice by City to Public Defender or the date that the municipal court ceases operations.

3.2 Termination by Mutual Agreement; Procedure for Such Agreement by City. The parties may agree in writing to terminate this Contract effective as of any date; such approval by the City must occur via a written Resolution approved via the affirmative vote of at least a majority of the whole membership of the City Council and also one of the following: (a) a corresponding approval signature on such Resolution by the Mayor or by the Mayor Pro Tem in the Mayor's absence, with such signature occurring within ten (10) days of the City Council's vote; (b) the passage of ten (10) days after the City Council's vote without any notice of veto by the Mayor or by the Mayor Pro Tem in the Mayor's absence; or (c) the City Council's reconsideration and reaffirmation of the Resolution via the affirmative vote of at least a majority plus one of the whole membership of the City Council, with such vote occurring within thirty (30) days of the date that a prior veto by the Mayor or by the Mayor Pro Tem in the Mayor's absence took effect.

3.3 Termination on a for Cause Basis. This Contract may be terminated on a for cause basis by either party in the event of an uncured violation of any materially-important provision(s) of this Contract. The "materially-important" provisions of this Contract include, but are not limited to, those provisions regarding City's payment of compensation and reimbursement to Public Defender and also those regarding Public Defender's acceptance of and work on cases, his record keeping as to the Data Points and his insurance requirements. In addition, Public Defender is also required to remain in good standing with the Washington State Bar Association and to provide representation in accordance with the Standards specified and defined in paragraph 1 above, and, thus, if Public Defender fails to maintain good standing or is ruled by a court or found by disciplinary body to have violated the Standards that shall also constitute violation of a material-important provision of this Contract.

3.3.1 Notice and Chance to Cure; Procedure for Notice by City. In the event of any suspected or believed violation of any materially-important provision(s) of this Contract, the non-violating party shall provide written notice of such to the violating-party. The non-violating party shall then have a period of thirty (30) business days in which to either cure the violation(s) if possible or to reach an understanding with the non-violating party to the effect that no violation(s) actually exists. If the violation(s) are not cured or agreed to not actually exist by conclusion of such period of time, then the non-violating party may provide a second notice to the violating party that declares this Contract terminated on a for cause basis. In lieu of declaring the Contract terminated on a for cause basis, the parties may negotiate as to alternative measures intended to correct any past violation(s) and to safeguard against future similar violation(s). Issuance of either or both notices by the City may be authorized by the Mayor or Mayor's designee, without any necessity or requirement of authorization by the City Council.

3.4 Public Defender's Obligations that Survive Termination. In the event of any non-renewal of this Contract's term or any termination of this Contract, Public Defender shall nevertheless continue to be bound by and fulfill the provisions of Sections 1 through 1.18 above and Section 5.1 below. This includes, but is not limited to, completing all cases pursuant to Section 1.16 above.

3.5 No Premature Termination by Public Defender. During the term of this Contract, Public Defender shall not have any option to terminate this Contract on a unilateral basis, or to refuse to accept and work on indigent cases on behalf of City (absent a conflict of interest arising or due to Public Defender being disbarred, suspended from the practice of law, or becoming unable to practice law due to disability), or to withdraw from any indigent case whereon he has appeared prior to completion of the case (again, absent a conflict of interest arising or due to Public Defender being disbarred, suspended from the practice of law, or becoming unable to practice law due to disability).

3.5.1 Liquidated Damages. Public Defender and City acknowledge and agree that the precise extent of damages that would be suffered by the City in the event that Public Defender prematurely and wrongfully refuses to continue accepting and working on indigent cases or prematurely and wrongfully withdraws from any indigent case prior to its completion is difficult to forecast in advance but would certainly be substantial. Accordingly, Public Defender and City acknowledge and agree that contractual liquidated damages are appropriate to specify and include within this Contract. If Public Defender prematurely and wrongfully refuses to continue accepting and working on indigent cases or prematurely and wrongfully withdraws from any indigent case prior to its completion, Public Defender shall owe City the amount of one thousand five hundred dollars (\$1,500.00) for each and every pending or newly-filed case whereon, as a result, a replacement public defender is engaged by City.

4. Nondiscrimination, Etc. Neither Public Defender nor any person acting on behalf of Public Defender shall by reason(s) of race; creed; color; religion; beliefs; national origin; immigration status; sex; sexual orientation; gender identity or expression; marital or relationship status; pregnancy status; age; political affiliation; membership or non-membership in any group or association; military status, veteran status or discharge from military status; actual or perceived sensory, mental or physical disability or handicap; HIV/AIDS status or Hepatitis C status; the use of a trained service animal; or any other now-existing or later-recognized protected class status or marginalized status, undertake any action or commit any omission that constitutes illegal discrimination or illegal retaliation, or otherwise provide lesser services under this Contract or comparatively adverse disparate services under this Contract.

5. Indemnification, Etc.

5.1 By Public Defender. Public Defender agrees to hold harmless, indemnify and defend at Public Defender's own immediate and continuing burden and expense with a lawyer of City's choice, the City and its officers, officials, agents, employees, representatives and insurers from, against and with respect to any and all claims, demands, damages, awards, fines, penalties, losses, suits, actions, judgments and costs (hereinafter in this paragraph "claims") – including but not limited to attorney's fees and claims by Public Defender himself or by his own agents and employees that arise under RCW Title 51 (Industrial Insurance) – that in any degree arise out of, are caused by or are connected to any willful misconduct or negligent error, or any omission by Public Defender or his own agents and employees. It is specifically and expressly understood that Public Defender is waving any immunity that he might otherwise be entitled to under RCW Title 51 (Industrial Insurance). The parties have mutually negotiated such waiver.

5.2 By City. City agrees to hold harmless, indemnify and defend at City's own immediate and continuing burden and expense with a lawyer of Public Defender's choice, Public Defender and his officers, officials, agents, employees, representatives and insurers from, against and with respect to any and all claims, demands, damages, awards, fines, penalties, losses, suits, actions, judgments and costs (hereinafter in this paragraph "claims") – including but not limited to attorney's fees – that in any degree arise out of, are caused by or are connected to any willful misconduct or negligent error, or any omission by City or its own agents and employees.

6. Insurance. Public Defender shall procure and maintain for the duration of this Contract insurance with regard to claims, demands, damages, awards, fines, penalties, losses, suits, actions, judgments and costs (hereinafter in this paragraph "claims") – including but not limited to attorney's fees – that in any degree arise out of, are caused by or are connected to performance of work under this Contract by Public Defender or his own agents and employees.

6.1 Minimum Scope of Insurance. Public Defender shall obtain insurance of the types described in Sections 6.1.1 through 6.1.4 below, and shall ensure that City is named as an additional insured on all insurance policies:

6.1.1 Professional liability (errors and omissions) insurance for Public Defender and his own agents and employees with a minimum limit of liability of one million dollars (\$1,000,000.00) per claim and two million dollars (\$2,000,000.00) aggregate.

6.1.2 Workers' compensation insurance per statutory requirements of RCW Title 51 (Industrial Insurance).

6.2 Verification of Coverage. Public Defender shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements prior to commencing work. Each insurance policy shall be conditioned that a thirty-day (30) advance notice of potential cancellation will be sent directly to the City. Public Defender shall provide the City with proof of "tail coverage" no later than thirty days (30) following the date of non-renewal or termination of this Contract. The purpose of tail coverage is to provide insurance coverage for all claims (as such term is defined in Section 6 above) that might be asserted regarding occurrences or omissions during the term of this Contract but that are not filed or presented until after the term expires or lapses.

7. Work Performed by Public Defender. In addition to compliance with the Standards, in the performance of work under this Contract the Public Defender shall comply with all federal, state and municipal laws, ordinances, rules and regulations that are applicable to Public Defender's business, equipment and personnel engaged in operations covered by this Contract or accruing out of the performance of such operations.

8. Work Performed at Public Defender's Risk. Public Defender shall be responsible for the safety of his own agents and employees in performance of work under this Contract, and shall take all protections reasonably necessary for that purpose. All work shall be done at Public Defender's own risk, and Public Defender shall be responsible for any loss or damage to materials, tools or other articles used or held in connection with the work. Public Defender shall also pay his own agents and employees all wages, salaries and benefits required by law and provide for taxes, withholdings and all other employment-related charges, taxes and fees in accordance with law and IRS regulations.

9. Personal Services; No Subcontracting; Option to Add Attorney. This Contract has been entered into in consideration of Public Defender's particular skills, qualifications, experience and abilities to meet the Standards. Thus, Public Defender has personally signed this Contract below to indicate that he is personally bound by its terms. This Contract shall not be subcontracted without the express written consent of City and City may withhold such consent at its sole discretion. Any purported subcontracting or assignment of this Contract without City's express written consent shall be void *ab initio*. However, as a partial modification of the preceding sentences, Public Defender may from time to time briefly engage a stand in attorney to cover for

Public Defender during any date on which Public Defender is ill, is away on vacation or is otherwise temporarily unable to perform work while still be licensed and allowed to practice law. Moreover, if Public Defender desires to add an additional attorney as a full-time performer under this Contract, he may seek the City's approval for such; such approval by the City must occur via a written Resolution approved via the affirmative vote of at least a majority of the whole membership of the City Council and also one of the following: (a) a corresponding approval signature on such Resolution by the Mayor or by the Mayor Pro Tem in the Mayor's absence, with such signature occurring within ten days of the City Council's vote; (b) the passage of ten days after the City Council's vote without any notice of veto by the Mayor or by the Mayor Pro Tem in the Mayor's absence; or (c) the City Council's reconsideration and reaffirmation of the Resolution via the affirmative vote of at least a majority plus one of the whole membership of the City Council, with such vote occurring within thirty days of the date that a prior veto by the Mayor or by the Mayor Pro Tem in the Mayor's absence took effect.

10. Modification. No waiver, alteration or modification of any provision of this Contract shall be binding unless it occurs in a written document that is signed by duly-authorized representatives of the City and Public Defender.

11. Entire Agreement. The written provisions of this Contract constitute the entire contractual agreement between the parties. No prior agreements or contracts exist.

12. Written Notice. All notices concerning this Contract shall be sent to the respective recipient party at the addresses listed below, unless and until any different address(es) are established via a prior valid written notice. Any written notice shall become effective as of the date of mailing via registered or certified mail, and shall be deemed sufficiently given if sent to the recipient party at the then-applicable address(es):

12.1 To City: City of Selah
Attn: Mayor
Attn: City Administrator
Attn: Clerk-Treasurer
Attn: City Attorney
Selah City Hall
115 West Naches Avenue
Selah, WA 98942

12.2 To Public Defender: Daniel B. Polage
dp Law
810 South 20th Avenue
Yakima, WA 98902-4229

13. Nonwaiver of Breach. The failure of City to insist upon strict performance and satisfaction by Public Defender under this Contract or City's non-exercise of any option or right

under this Contract in any instance shall not be construed to be a waiver, estoppel or relinquishment of City's right to require strict performance and satisfaction in future instances or City's ability to exercise any option or right in future instances.

14. Disputes. All unresolved dispute concerning this Contract shall be litigated in the Superior Court for Yakima County. This Contract shall be governed by the internal laws (excluding choice of law and conflict of law principles) of Washington. The prevailing party or substantially prevailing party on any lawsuit shall be entitled to recover costs and attorney's fees against the other party. In no event shall City or its attorney(s) be entitled to inquire into the substance of any privileged communication that occurred between Public Defender and his client(s); however, City and its attorney(s) shall be entitled to inquire as to the actual occurrence or nonoccurrence of such communications to the extent that their occurrence or nonoccurrence is a relevant consideration during any lawsuit between City and Public Defender.

WHEREFORE, the parties have entered into and formed this Contract via their respective signatures occurring on the date(s) recited below, but with the Contract taking effect on May 1, 2023:

CITY OF SELAH ("City")

By: Sherry Raymond
Sherry Raymond, Mayor
(following prior approval of City Council via Resolution)

Dated: 04/11/2023

DANIEL B. POLAGE ("Attorney")

By: _____
Daniel B. Polage

Dated: _____

under this Contract in any instance shall not be construed to be a waiver, estoppel or relinquishment of City's right to require strict performance and satisfaction in future instances or City's ability to exercise any option or right in future instances.

14. Disputes. All unresolved dispute concerning this Contract shall be litigated in the Superior Court for Yakima County. This Contract shall be governed by the internal laws (excluding choice of law and conflict of law principles) of Washington. The prevailing party or substantially prevailing party on any lawsuit shall be entitled to recover costs and attorney's fees against the other party. In no event shall City or its attorney(s) be entitled to inquire into the substance of any privileged communication that occurred between Public Defender and his client(s); however, City and its attorney(s) shall be entitled to inquire as to the actual occurrence or nonoccurrence of such communications to the extent that their occurrence or nonoccurrence is a relevant consideration during any lawsuit between City and Public Defender.

WHEREFORE, the parties have entered into and formed this Contract via their respective signatures occurring on the date(s) recited below, but with the Contract taking effect on May 1, 2023:

CITY OF SELAH ("City")

By: Sherry Raymond
Sherry Raymond, Mayor
(following prior approval of City Council via Resolution)

Dated: 04/11/2023

DANIEL B. POLAGE ("Attorney")

By: Dan B. Polage
Daniel B. Polage

Dated: 4/4/2023



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 4/11/2023

Agenda Number: 13-6

Action Item

Title: Resolution Authorizing the Mayor to Sign a Four-Page Amendment to Professional Services Contract Prosecution with the Entity of Margita A. Dornay Attorney at Law, PLLC

From: D. R. (Rob) Case, City Attorney

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: An additional \$3,000.00 per month for flat monthly fee (plus a \$10.00 increase for hourly trial work and a \$30.00 increase for work on appeals, each and both over-and-above the flat monthly fee)

Funding Source: 001, General Fund

Background/Findings/Facts: City management desires to adjust the compensation paid to the City's independent contractor prosecuting attorney, and to also make some additional changes to the language of her contract.

The City has a longstanding contractual relationship with the law firm of Margita A. Dornay Attorney at Law, PLLC, whereby Ms. Dornay provides prosecution services for criminal and infraction cases at the City's municipal court. The most-recent written version of the contract (labeled "Professional Services Contract Prosecution") was entered into on July 17, 2015 – and a copy of that version is appended hereto. It recites that Ms. Dornay's base compensation as a flat monthly fee of \$4,700.00. However, the currently-applicable rate is actually \$5,000.00 per month. It was increased on or about February 5, 2016, concurrently with an increase that the City then granted to its public defender, because Ms. Dornay's contract specifies that she is entitled to an equivalent increase any time an increase is granted to the public defender. No written amendment/document was signed to confirm Ms. Dornay's increase from \$4,700.00 to \$5,000.00, presumably because it occurred automatically per the terms of Ms. Dornay's contract. However, Ordinance No. 1983 included the corresponding \$3,600.00 annual adjustment for Ms. Dornay's base compensation, thus covering the additional \$300.00 per month for the change from \$4,700.00 to \$5,000.00. The parties have been using the figure of \$5,000.00 per month for more than six years.

Concurrent with the instant AIS and its proposed Resolution, City management will separately present multiple other AISs and Resolutions that pertain to operation of the municipal court. One of those AIS-and-Resolution submissions will seek approval for the City to engage a new public

defender (Daniel Polage) for a flat monthly fee of \$9,000.00 (plus additional hourly sums for work on trials and on appeals). Per the terms of Ms. Dornay's existing contract, she would be presumptively entitled to an equivalent increase. However, she has agreed to a lesser increase. Specifically, she is willing to accept an increase to a base compensation rate to a flat monthly fee of \$8,000.00 per month rather than \$9,000.00 per month – effectively creating a \$1,000.00 per month "savings" for the City.

A four-page written amendment to Ms. Dornay's contract, labeled "Amendment to Professional Services Contract Prosecution", has been prepared and signed in advance by Ms. Dornay – and a copy is appended to this AIS. The instant AIS seeks the City Council's approval for the Mayor to sign the Amendment, which Amendment would then take effect on May 1, 2023.

The proposed Amendment also includes some additional changes to Ms. Dornay's contract. The most notable additional changes pertain to the hourly rates she is entitled to – over and above her base monthly compensation – for work on trials and/or appeals. Her preexisting rate was \$90.00 per hour for trials (subject to a maximum of \$500.00 per day) and \$65.00 per hour for appeals. The proposed Amendment would increase those rates to \$100.00 per hour for trials (subject to a maximum of \$600.00 per day) and \$95.00 per hour for appeals. Additional, less-notable changes would occur to certain language within her contract.

All of the proposed changes are clearly identified in the proposed Amendment, including via editing marks. The changes should be self-explanatory.

Also appended to this AIS are some explanatory materials by Ms. Dornay, whereby she documents that the municipal court caseload has significantly increased over time and that her own expenses have also increased.

City management is quite satisfied with Ms. Dornay's history of performance, she has not received any increase for six-plus years, inflation continues to be significant, and there is a dearth of qualified prosecuting attorneys who could potentially accept an appointment as an independent contractor for Selah (consistent with a general lack of prosecuting attorneys, defense attorneys can municipal attorneys, as noted in a recent Yakima Herald-Republic article and in other forums).

A budget adjustment Ordinance will need to be approved, after and if the currently-presented Resolution is approved.

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:
01/26/2016	An Ordinance Amending the 2016 Budget for Legal Department Public Defense and Prosecution Costs
07/17/2015	Professional Services Contract Prosecution

RESOLUTION NO. 3003

RESOLUTION AUTHORIZING THE MAYOR TO SIGN A FOUR-PAGE AMENDMENT TO PROFESSIONAL SERVICES CONTRACT PROSECUTION WITH THE ENTITY OF MARGITA A. DORNAY ATTORNEY AT LAW, PLLC

WHEREAS, the City has a longstanding contractual relationship with the law firm of Margita A. Dornay Attorney at Law, PLLC, whereby Ms. Dornay provides prosecution services on an independent contractor basis for criminal and infraction cases at the City's municipal court; and

WHEREAS, the most-recent written version of the contract is labeled "Professional Services Contract Prosecution" and was entered into on or about July 17, 2015; and

WHEREAS, the City desires to make certain changes to such existing contract, both with respect to Ms. Dornay's levels of compensation and with respect to other language within the existing contract; and

WHEREAS, a four-page written amendment, labeled "Amendment to Professional Services Contract Prosecution" has been prepared, has already been signed in advance by Ms. Dornay, and the terms 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 the four-page Amendment to Professional Services Contract Prosecution" in the form appended hereto.

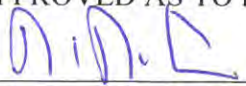
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 11th day of April, 2023.


Sherry Raymond, Mayor

ATTEST:


Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:


Rob Case, City Attorney

**AMENDMENT TO
PROFESSIONAL SERVICES CONTRACT
PROSECUTION**

WHEREAS, a two-page "Professional Services Contract Prosecution" (hereinafter "preexisting contract") was entered into and formed between the City of Selah (hereinafter "City") and the entity of Margita A. Dornay Attorney at Law, PLLC (hereinafter "Attorney" or "Contractor") on or about July 17, 2015, whereby Attorney provides prosecution services to City on an independent contractor basis; and

WHEREAS, the parties have operated under such preexisting contract since its formation, and only one prior amendment/adjustment has occurred – with that specific amendment/adjustment taking effect on or about February 5, 2016, when Attorney's base compensation was increased from \$4,700.00 gross per month to \$5,000.00 gross per month (concurrently with an equivalent increase in the base compensation paid by City to its then-retained independent contractor public defense firm pursuant to a one-page "First Amendment to Public Defender Contract" of such date) consistent with the second paragraph under the section labeled "Compensation" in Attorney's preexisting contract which, in relevant part, stated that "In the event the City provides increased compensation to Public Defender for legal services provided to indigent defendants, the City agrees to provide an increase to Attorney for Prosecution Services in a commensurate amount"; and

WHEREAS, the parties now desire to effectuate additional amendments/adjustments to Attorney's preexisting contract with regard to Attorney's compensation and also with regard to other related language and substantive changes, and the parties have signed this "Amendment to Professional Services Contract Prosecution" in order to recite, confirm and establish such now-occurring amendments/adjustments;

NOW THEREFORE, in consideration of the mutual benefits to be derived and the promises contained herein including continuation of the parties' contractual relationship, City and Attorney hereby enter into and form this Amendment to Professional Services Contract Prosecution:

1. Language of Preexisting Contract that will be Modified. The two paragraphs under the section labeled "Compensation" in Attorney's preexisting contract presently read (prior to the amendments/adjustments to be effectuated by the instant document becoming effective) as follows:

IV. COMPENSATION

The foregoing services will be provided on a flat monthly fee basis. The flat fee charged to the City for the services above is \$4700.00 per month. In exchange for the flat fee, Attorney will provide all of the prosecution services identified above. However, in the event Attorney is required to prepare for and provide services for a criminal trial, Attorney will bill the City at the rate of \$90.00 per hour (with a maximum amount of \$500 per trial), which will be in addition to the flat fee amount. Likewise, where Attorney must file or respond to an appeal to Superior Court,

Attorney will bill the City at the rate of \$65.00 per hour, which will be in addition to the flat fee amount. Concerning an appeal, Attorney will not initiate an appeal on the City's behalf without first consulting with the City for approval of such appeal.

The fee arrangement shall continue on an annual calendar year basis provided that either party may deliver written notice to the other party, on or before November of any calendar year, requesting renegotiation of any terms of this contract for the subsequent calendar year. In the event the City provides increased compensation to Public Defender for legal services provided to indigent defendants, the City agrees to provide an increase to Attorney for Prosecution Services in a commensurate amount.

2. Acknowledgment of Prior Amendment/Adjustment. As recited above, one prior amendment/adjustment to Attorney's preexisting contract occurred in 2016, with that specific amendment/adjustment being that Attorney's base compensation was increased from \$4,700.00 to \$5,000.00. A separate written document was not signed between the parties in order to recite and confirm that prior amendment/adjustment, but the parties agree that such amendment/adjustment was effectuated and they have been using the figure of \$5,000.00 since 2016.

3. New, As-Modified Language of Contract (with editing marks). Effective as of May 1, 2023, the two paragraphs under the heading of "Compensation" in Attorney's preexisting contract shall and will be modified as shown via following editing marks:

IV. COMPENSATION

The foregoing services will be provided ~~on a flat monthly fee basis in exchange for the compensation established by the two paragraphs within this "Compensation" section.~~ The flat fee charged to the City for the services above is \$4700.00 per month. As ordinary base compensation, Attorney will charge a flat fee to the City of \$8,000.00 per month. In exchange for the flat fee, Attorney will provide all of the prosecution services identified above. However, in the event Attorney is required to prepare for and provide services for a criminal trial, Attorney will bill the City at the rate of ~~\$90.00 per hour~~ \$100.00 per hour for in-court trial time (with a maximum amount of ~~\$500 per trial~~ \$600.00 per day of trial), which will be in addition to the flat fee amount. Likewise, where Attorney must file or respond to an appeal ~~to Superior Court~~, Attorney will bill the City at the rate of ~~\$65.00 per hour~~ \$95.00 per hour for work on the appeal (in preparation for, during and/or after any in-court hearing), which will be in addition to the flat fee amount. Concerning an appeal, Attorney will not initiate an appeal on the City's behalf without first consulting with the City for approval of such appeal ~~– which approval may be granted by the Mayor or the Mayor's designee without any requirement or necessity of authorization by the City Council.~~

The fee arrangement shall continue on an annual calendar year basis provided that either party may deliver written notice to the other party, on or before November of any calendar year, requesting renegotiation of any terms of this contract for the

subsequent calendar year. In the event the City after June 2023 provides increased compensation to the lawyer(s) who then provide Public Defender ~~for~~ legal services ~~provided~~ to indigent defendants on City's behalf, the City agrees to provide an increase to Attorney for Prosecution Services in a commensurate amount.

4. New, As-Modified Language of Contract (without editing marks). Effective as of May 1, 2023, the two paragraphs under the heading of "Compensation" in Attorney's preexisting contract shall and will be modified to read and provide as follows:

IV. COMPENSATION

The foregoing services will be provided in exchange for the compensation established by the two paragraphs within this "Compensation" section. As ordinary base compensation, Attorney will charge a flat fee to the City of \$8,000.00 per month. In exchange for the flat fee, Attorney will provide all of the prosecution services identified above. However, in the event Attorney is required to prepare for and provide services for a criminal trial, Attorney will bill the City at the rate of \$100.00 per hour for in-court trial time (with a maximum amount of \$600.00 per day of trial), which will be in addition to the flat fee amount. Likewise, where Attorney must file or respond to an appeal, Attorney will bill the City at the rate of \$95.00 per hour for work on the appeal (in preparation for, during and/or after any in-court hearing), which will be in addition to the flat fee amount. Concerning an appeal, Attorney will not initiate an appeal on the City's behalf without first consulting with the City for approval of such appeal – which approval may be granted by the Mayor or the Mayor's designee without any requirement or necessity of authorization by the City Council.

The fee arrangement shall continue on an annual calendar year basis provided that either party may deliver written notice to the other party, on or before November of any calendar year, requesting renegotiation of any terms of this contract for the subsequent calendar year. In the event the City after June 2023 provides increased compensation to the lawyer(s) who then provide Public Defender legal services to indigent defendants on City's behalf, the City agrees to provide an increase to Attorney for Prosecution Services in a commensurate amount.

5. Effective Date: No Other Changes. The amendments/adjustments recited, confirmed and established by the instant document will take effect on May 1, 2023. Except as stated in the instant document, all other terms, provisions, language and effect of Attorney's preexisting contract remain in full force and effect without any modification.

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WHEREFORE, the parties have entered into and formed this contractual amendment via their respective signatures occurring on the date(s) recited below, but with the contractual amendment taking effect on May 1, 2023:

CITY OF SELAH ("City")

By: Sherry Raymond
Sherry Raymond, Mayor
(following prior approval of City Council via Resolution)

Dated: 04/11/2023

MARGITA A. DORNAY ATTORNEY AT LAW, PLLC ("Attorney" or "Contractor")

By: [Signature]
Margita A. Dornay, Member-Manager

Dated: 4/4/23

PROFESSIONAL SERVICES CONTRACT PROSECUTION

I. PARTIES

This contract is made on this 17th of July, 2015 between the City of Selah ("City") and Margita A. Dornay Attorney at Law, PLLC ("Attorney" or "Contractor").

II. TERM - INDEPENDENT CONTRACTOR

Performance under this Contract shall commence on July 16, 2015 and shall continue until such time as one of the parties terminates the contract under this provision. Either party may terminate this Contract upon giving thirty (60) days written notice prior to the termination date.

The relationship of the Contractor to the City shall be that of an independent contractor rendering professional services. Nothing contained herein shall be deemed to create the relationship of employer and employee or principal or agent between the City and the Contractor.

III. SERVICES PROVIDED

Contractor shall be principally responsible for performing the work required under this Contract for the City. She may from time to time employ other attorneys to assist her as necessary. Attorney will provide the following legal services:

A. Prosecution of Misdemeanor and Gross Misdemeanor Crimes.

Attorney shall be responsible for all aspects of prosecution, including: making filing decisions on criminal cases and recommendations with respect to the conduct of investigations, trial preparation, and related matters; responding to, and preparing, pre-trial motions; interviewing witnesses and victims of crimes; advising victims regarding their rights and responsibilities; prosecuting misdemeanor, gross misdemeanor and criminal traffic cases; representing the City at arraignments, pretrial hearings, bench and jury trials, and review hearings; conducting plea bargain negotiations and making appropriate plea offers; making sentencing recommendations and decisions to the court; preparing and presenting legal memoranda, preparing and or directing that subpoenas, jury instructions, and other related materials be prepared.

Attorney will be available by telephone to discuss questions from witnesses, police and staff. Attorney will provide a telephone number for purposes of police investigation/advice. The phone number is expected to be used infrequently, and only for emergent legal matters.

B. Prosecution of Contested Traffic Infractions.

Attorney shall be responsible for all aspects of contested traffic infractions, including: presentation of the City's case (which may be limited to the entry of the police report into the record, but in some cases may be more involved including the interview of and presentation of witness testimony or other evidence) with respect to contested traffic infraction matters.

IV. COMPENSATION

The foregoing services will be provided on a flat monthly fee basis. The flat fee charged to the City for the services above is \$4700.00 per month. In exchange for the flat fee, Attorney will provide all of the prosecution services identified above. However, in the event Attorney is required to prepare for and provide services for a criminal trial, Attorney will bill the City at the rate of \$90.00 per hour (with a maximum amount of \$500 per trial), which will be in addition to the flat fee amount. Likewise, where Attorney must file or respond to an appeal to Superior Court, Attorney will bill the City at the rate of \$65.00 per hour, which will be in addition to the flat fee amount. Concerning an appeal, Attorney will not initiate an appeal on the City's behalf without first consulting with the City for approval of such appeal.

The fee arrangement shall continue on an annual calendar year basis provided that either party may deliver written notice to the other party, on or before November of any calendar year, requesting negotiation of any terms of this contract for the subsequent calendar year. In the event the City provides increased compensation to Public Defender for legal services provided to indigent defendants, the City agrees to provide an increase to Attorney for Prosecution Services in a commensurate amount.


Agreed this 17th day of July, 2015

CITY OF SELAH



Mayor John Gawlik

ATTORNEY/CONTRACTOR



Margita A. Dornay, Manager
Margita A. Dornay Attorney at Law, PLLC

ATTEST:



Dale Novobielski, City Clerk/Treasurer

Margita A. Dornay
Attorney at Law

420 S. 72nd Ave Ste 180
#405
Yakima, WA 98908
509-571-1803
Fax 509-571-1804
margitalaw@gmail.com

February 24, 2023

Honorable Mayor Sherry Raymond
Joe Henne, City Manager
Rob Case, City Attorney
115 W. Naches
Selah, WA 98942

Re: Prosecution Services

Dear Mayor and Messrs,

It has been a pleasure providing the City of Selah with prosecution services since 2010.

The current rate of pay for monthly prosecution services is \$5000 per month not including jury trials and appeals. The \$5000 includes all costs for copies, travel, postage etc.

As the City is probably aware, there has been a substantial increase in case filings in the City. This has increased the amount of time my staff and I devote to the City for providing prosecution services. These numbers are corroborated by the case filings documented by the Washington Court caseload statistics. I have attached the case filing information for the City of Selah from 2019 through 2022.

The total case filings are as follows:

1. 2019- 631 cases filed
2. 2020- 699 cases filed
3. 2021- 576 cases filed
4. 2022- 1316 cases filed

The increase in 2022 reflects a dramatic increase in total filings for the City. I have also attached my December and January invoices from 2019 through January 2023.¹ As you can see,

¹ The Invoices reflect what would have been charged at an hourly rate of \$175. I am paid the flat rate instead.

the hours I am devoting to Selah has also increased consistent with the numbers. I would note that these invoices do not include my two paralegals' time which I can assure the City has also increased in response to the increased caseloads.

Finally, the addition of Axon body camera videos on all officers has necessitated the hiring of an additional part time staff person to process, review and the distribute the lengthy videos for discovery. This staff person is exclusively being hired to handle the processing of these videos for Selah and Union Gap and for no other purpose.

While I am aware that my contract provides that I am to be paid at the same rate as the public defender, I am prepared to take less at this time. I understand that the City has made arrangements to hire two public defenders to split the case load in Selah at a rate of \$4000 per month each. In addition to handling all of the cases the two public defenders will manage, I also handle all the private counsel cases, the traffic infractions, as well as nuisance matters. My caseload, therefore, is greater than the public defenders.

I would therefore propose the following change in rates.

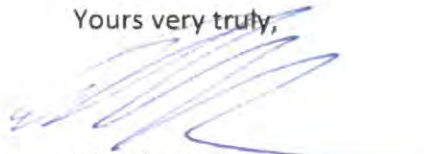
\$7300 monthly rate.

\$100 an hour for jury trials with a cap at \$600 per day (currently \$90 per hour with a cap of \$500 per day)

\$95 per hour for appeals (currently \$65 per hour)

Please feel free to contact me if you have any questions.

Yours very truly,



Margita A. Dornay

Caseloads of the Courts of Washington

Cases Filed - 2019 Annual Report

Page 14 of 15

	----- Infraction -----			----- Misdemeanors -----															Total
	Traffic	Non-Traffic	DUI/Phy Control	Other Traffic	Non-Traffic	Civil Protection Orders (1)	Civil	Small Claims	Felony Complaints	Parking(2)									
Everson Nooksack M	674	5	23	72	36	0	0	0	0	1	811								
Ferndale M	1,409	4	17	350	156	0	0	0	0	15	1,951								
Lynden M	771	15	47	260	98	0	0	0	0	6	1,197								
Sumas M	483	0	3	121	28	0	0	0	0	0	635								
Whatcom County	23,901	630	1,165	3,072	3,169	265	2,455	359	0	784	35,800								
Whitman County																			
Whitman D	7,139	384	195	427	398	71	472	62	1	0	9,149								
Whitman D Total	7,139	384	195	427	398	71	472	62	1	0	9,149								
Colfax M	492	6	6	45	30	1	0	0	0	3	583								
Colton M	53	0	0	0	0	0	0	0	0	0	53								
Union Town M	27	2	0	0	0	0	0	0	0	0	29								
Whitman County	7,711	392	201	472	428	72	472	62	1	3	9,814								
Yakima County																			
Yakima D	14,816	134	672	2,083	1,191	224	7,460	520	1	92	27,193								
Grandview M	1,063	25	67	238	216	0	0	0	0	47	1,656								
Mabton M	15	0	1	6	9	0	0	0	0	0	31								
Moxee City M	108	1	1	103	28	0	0	0	0	0	241								
Tieton M	201	6	0	0	0	0	0	0	0	0	207								
Union Gap M (UNI)	734	13	15	323	525	0	0	0	0	9	1,619								
Yakima D Total	16,937	179	756	2,753	1,969	224	7,460	520	1	148	30,947								
Granger M	198	0	1	19	68	0	0	0	1	4	291								
Moxee City M	118	2	0	0	0	0	0	0	0	0	120								
Selah M	375	14	3	157	82	0	0	0	0	0	631								
Sunnyside M	1,056	32	93	337	545	0	0	0	0	11	2,074								
Toppenish M	262	39	29	113	420	0	0	0	0	17	880								
Wapato M	269	0	4	81	64	0	0	0	0	0	418								
Yakima M	10,695	133	340	503	1,777	1	13	0	0	26	13,488								

Page 14 of 15

	Infraction		Misdemeanors					Total			
	Traffic	Non-Traffic	DUI/Phy Control	Other Traffic	Non-Traffic	Civil Protection Orders (1)	Civil	Small Claims	Felony Complaints	Parking(2)	Total
Whitman County											
Whitman D	4,886	187	99	361	166	62	387	45	1	0	6,194
...Garfield M	0	2	0	0	0	0	0	0	0	0	2
...Palouse M	0	1	0	0	0	0	0	0	0	0	1
...Pullman M	217	58	66	78	176	0	0	0	0	0	595
Whitman D Total	5,103	248	165	439	342	62	387	45	1	0	6,792
Colfax M	464	5	1	9	13	0	2	0	0	4	498
Colton M	34	0	0	0	0	0	0	0	0	0	34
Union Town M	24	1	0	0	0	0	0	0	0	0	25
Whitman County	5,625	254	166	448	355	62	389	45	1	4	7,349
Yakima County											
Yakima D	10,752	135	616	1,424	894	207	4,353	298	0	99	18,778
...Grandview M	603	21	63	159	209	0	0	0	0	21	1,076
...Mabton M	79	5	0	10	15	0	0	0	0	0	109
...Moxee City M	223	2	1	186	35	0	0	0	0	0	447
...Tieton M	185	1	0	0	0	0	0	0	0	1	187
...Union Gap M (UNI)	773	13	14	314	340	0	0	0	0	1	1,455
Yakima D Total	12,615	177	694	2,093	1,493	207	4,353	298	0	122	22,052
Granger M	263	0	6	28	57	0	0	0	0	1	355
Selah M	363	2	4	243	87	0	0	0	0	0	699
Sunnyside M	823	20	105	347	596	0	0	0	0	4	1,895
Toppenish M	295	36	33	92	247	0	0	0	0	6	709
Wapato M	247	0	3	80	118	0	0	0	0	9	457
Yakima M	7,212	59	261	684	2,116	0	7	0	0	29	10,368
Zillah M	175	11	6	26	23	0	0	0	0	1	242
Yakima County	21,993	305	1,112	3,593	4,737	207	4,360	298	0	172	36,777

Caseloads of the Courts of Washington

Cases Filed - 2021 Annual Report

Page 18 of 14

	----- Infraction -----		----- Misdemeanors -----					Parking(2)	Total		
	Traffic	Non-Traffic	DUI/ Phy Control	Other Traffic	Non-Traffic	Civil Protection Orders (1)	Civil			Small Claims	Felony Complaints
...Moxee City M	322	2	5	42	27	0	0	0	0	0	398
...Tieton M	158	2	0	0	0	0	0	0	0	0	160
...Union Gap M (UNI)	945	20	14	257	304	0	0	0	0	22	1,562
.Yakima D Total	10,839	233	592	685	1,420	381	4,955	303	1	47	19,456
.Granger M	266	0	6	24	52	0	0	0	0	5	353
.Selah M	375	2	4	100	95	0	0	0	0	0	576
.Sunnyside M	1,122	14	125	384	533	0	0	0	0	2	2,180
.Toppenish M	277	36	47	90	335	0	0	0	0	0	785
.Wapato M	184	0	5	61	167	0	1	0	0	9	427
.Yakima M	7,851	109	354	656	2,029	0	7	0	0	21	11,027
.Zillah M	72	5	4	6	27	0	0	0	0	5	119
.Yakima County	20,986	399	1,137	2,006	4,658	381	4,963	303	1	89	34,923

- (1) Does not include related criminal charges, which are included in non-traffic misdemeanors.
- (2) Figures are incomplete. Many courts manage their parking infraction cases outside of JIS. Data for a specific court may be available from that court. Since November 2008 Seattle Municipal includes traffic camera citations with the parking numbers.
- (3) Beginning October 30, 2017, a new case management system, eCourt, was implemented by King County District Court. Phase 1 implementation involved converting civil cases initiated by Summons and Complaint, filing of a foreign judgment, filing of a money judgment

Caseloads of the Courts of Washington

Cases Filed - January 2022 through December 2022

Page 14 of 14

	----- Infraction -----			----- Misdemeanors -----			Civil Protection Orders (1)	Civil	Small Claims	Felony Complaints	Parking(2)	Total
	Traffic	Non-Traffic	DUI/ Phy Control	Other Traffic	Non-Traffic							
.Yakima D Total	10,317	266	553	522	1,599	374	4,822	398	0	0	49	18,900
.Granger M	258	3	11	22	63	0	0	0	0	0	1	358
Salish M	927	2	20	226	141	0	0	0	0	0	0	1,316
.Sunnyside M	1,064	17	78	312	525	0	0	0	0	0	6	2,002
.Toppenish M	128	10	23	50	247	0	0	0	0	0	1	459
.Wapato M	200	0	3	72	156	0	0	0	0	0	10	441
.Yakima M	8,060	108	412	600	2,152	0	8	0	0	0	8	11,348
.Zillah M	129	12	5	8	45	0	0	0	0	0	2	201
Yakima County	21,083	418	1,105	1,812	4,928	374	4,830	398	0	0	77	35,025

(1) Effective 7/1/2022, the Civil Protection Orders category includes case activity for the Civil Protection Order (CPO) action set out under Chapt. 7.105 RCW, and Extreme Risk Protection orders (XRP and XRU). This category does not include related criminal charges, which are included in non-traffic misdemeanors.

(2) Figures are incomplete. Many courts manage their parking infraction cases outside of JIS. Data for a specific court may be available from that court. Since November 2008 Seattle Municipal includes traffic camera citations with the parking numbers.

January 2019

Margita A. Dornay, Attorney at Law
4109 Tieton Drive
Yakima, WA 98908
509-910-7422; Margitalaw@gmail.com

February 08, 2019
Invoice Number 1333

City of Selah (PROSECUTION)
Jan Farley, Accounts Payable
115 W Naches Ave
Selah, WA 98908

Date	Description	Hours	Rate	Tax	Total
	Previous Balance				\$0.00
1/1/2019		2.58	\$175.00	\$0.00	\$452.08
1/2/2019	Prepare for 1/2/19 calendar	4.25	\$175.00	\$0.00	\$743.75
	Prepare for and (Robert Noe) handle 1/2/19 calendar; review new cases for filing; handle follow up from 1/2/calendar; multiple calls and emails re: pending matters				
1/3/2019	Multiple calls and emails re: pending matters; review new cases for filing	0.50	\$175.00	\$0.00	\$87.50
1/4/2019	Review new cases for filing; prepare declines draft Motion to Dismiss re: King	2.25	\$175.00	\$0.00	\$393.75
1/7/2019	Prepare for 1/8 calendar; review new cases for filing; multiple calls and emails re: pending matters	2.17	\$175.00	\$0.00	\$379.17
1/8/2019	Prepare for and handle 1/8 calendar; handle follow up from same; review new cases for filing	3.75	\$175.00	\$0.00	\$656.25
1/9/2019	Multiple calls and emails re: pending matters; review new cases for filing; draft Stipulation to evidence re: Katchuk	2.42	\$175.00	\$0.00	\$422.92
1/11/2019	Review new cases for filing; work up pending trial and FTC hearings; multiple calls and emails re: pending matters	2.00	\$175.00	\$0.00	\$350.00
1/14/2019	Review new filings and sign complaints; prepare for 1/15 calendar; prepare for Katchuk trial; multiple calls and emails re: pending matters	3.42	\$175.00	\$0.00	\$597.92
1/15/2019	Prepare for and handle regular calendar; handle trial for Selah v. Katchuk; mtg with Off. Worrell re: pending matter and review video; handle follow up from calendar; multiple emails and calls re: pending matters	5.25	\$175.00	\$0.00	\$918.75
1/17/2019	Review new cases for filing; multiple calls and emails re: pending cases	1.50	\$175.00	\$0.00	\$262.50
1/18/2019	Review new cases for filing; multiple calls and emails re: pending matters	1.25	\$175.00	\$0.00	\$218.75
1/21/2019	Prepare for 1/22/19 calendar	1.50	\$175.00	\$0.00	\$262.50

Date	Description	Hours	Rate	Tax	Total
1/22/2019	Prepare for and handle 1/22/calendar. handle follow up from same. multiple emails and calls re pending matters. review new cases for filing	4.50	\$175.00	\$0.00	\$787.50
1/24/2019	Multiple calls and emails re pending matters	1.25	\$175.00	\$0.00	\$218.75
1/28/2019	Prepare for 1/29 calendar. review new cases for filing. multiple calls and emails re pending cases	2.25	\$175.00	\$0.00	\$393.75
1/29/2019	Prepare for and handle 1/29/19 calendar. handle follow up from same. prepare subpoenas and file same with court re. Selah v. Pazerekas trial. review new cases for filing	4.33	\$175.00	\$0.00	\$758.33
1/30/2019	Prepare SOC's. multiple calls and emails re pending matters	0.75	\$175.00	\$0.00	\$131.25
	Amount Due	45.92			\$8,035.42

Thank You! - Balance is due upon receipt
1.5% interest per month on unpaid balances

January 2020

Margita A. Dornay, Attorney at Law
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Yakima, WA 98908
509-910-7422; Margitalaw@gmail.com

February 07, 2020
Invoice Number 1404

City of Selah (PROSECUTION)
Jan Farley, Accounts Payable
115 W. Naches Ave
Selah, WA 98908

Date	Description	Hours	Rate	Tax	Total
	Previous Balance				\$0.00
1/2/2020	Review new cases for filing, work up pending cases, multiple calls and emails re pending matters	1.42	\$175.00	\$0.00	\$247.92
1/3/2020	Multiple calls and emails re pending matters, work up pending files	1.25	\$175.00	\$0.00	\$218.75
1/6/2020	Review new cases for filing, prepare for 1/7/20 calendar, multiple calls and emails re pending matters	2.25	\$175.00	\$0.00	\$393.75
1/7/2020	Prepare for and handle 1/7 calendar, handle follow up from same, multiple calls and emails re pending matters, work up Reyes Ramos trial	3.50	\$175.00	\$0.00	\$612.50
1/9/2020	Continued work up from 1/7 calendar, multiple calls and emails re pending matters	1.17	\$175.00	\$0.00	\$204.17
1/10/2020	Work up pending cases, review new cases for filing, multiple calls and emails re pending matters	0.75	\$175.00	\$0.00	\$131.25
1/12/2020	Multiple emails and calls re pending matters, prepare subpoenas and work up Reyes-Ramos Bench trial, review new cases for filing	1.42	\$175.00	\$0.00	\$247.92
1/13/2020	Prepare for 1/14 calendar and bench trial (Reyes-Ramos), multiple calls and emails re pending matters, work up pending cases	2.50	\$175.00	\$0.00	\$437.50
1/14/2020	Prepare for and handle 1/14 calendar and Isaac Reyes Ramos Bench trial, handle follow up from calendar, multiple calls and emails re pending matters	7.25	\$175.00	\$0.00	\$1,268.75
1/15/2020	Multiple calls and emails re pending matters, draft and file witness list re Donald Fife, continued follow up from 1/14 calendar	1.25	\$175.00	\$0.00	\$218.75
1/17/2020	Multiple calls and emails re pending matters, work up pending cases	0.75	\$175.00	\$0.00	\$131.25
1/20/2020	Prepare for 1/21 calendar, multiple calls re	1.17	\$175.00	\$0.00	\$204.17

Date	Description	Hours	Rate	Tax	Total
1/21/2020	Prepare for and handle 1/21 calendar, handle follow up from same, multiple calls and emails re pending matters, review new cases for filing	3.42	\$175.00	\$0.00	\$597.92
1/22/2020	Multiple calls and emails re pending matters, handle follow up from 1/21 calendar, letter to victim re Kintner case, work up same for trial	1.25	\$175.00	\$0.00	\$218.75
1/23/2020	Work up pending matters, multiple calls and emails re cases	0.83	\$175.00	\$0.00	\$145.83
1/24/2020	Multiple calls and emails re pending matters, work up existing cases, review new cases for filing/decline	1.50	\$175.00	\$0.00	\$262.50
1/27/2020	Prepare for 1/28 calendar, review new cases for filing, multiple calls and emails re pending matters	2.58	\$175.00	\$0.00	\$452.08
1/28/2020	Prepare for and handle 1/28/20 calendar, handle follow up from same, multiple calls and emails re pending matters	3.75	\$175.00	\$0.00	\$656.25
1/29/2020	Multiple emails and calls re pending matters	0.75	\$175.00	\$0.00	\$131.25
1/30/2020	Review new cases for filing, multiple calls and emails re pending matters	0.83	\$175.00	\$0.00	\$145.83
1/31/2020	Multiple calls and emails re pending matters, begin work up fro 2/4 calendar, review new cases for filing	1.50	\$175.00	\$0.00	\$262.50
	Amount Due	41.09			\$7,189.59

Thank You! - Balance is due upon receipt
1.5% interest per month on unpaid balances

January 2021

Margita A. Dornay, Attorney at Law
420 S. 72nd Ave., Ste 180, #405
Yakima, WA 98908
509-571-1803; Margitalaw@gmail.com

February 02, 2021
Invoice Number 1526

City of Selah (PROSECUTION)
Angela Dean, Accounts Payable
115 W. Naches Ave
Selah, WA 98908

Date	Staff	Description	Hours	Rate	Total
		Previous Balance			\$0.00
1/2/2021	Margita Dornay	Multiple LE calls re field investigations	0.33	\$175.00	\$58.33
1/4/2021	Margita Dornay	Prepare for 1/5/21 calendar, multiple calls and emails re pending cases review new cases for filing	2.58	\$175.00	\$452.08
1/5/2021	Margita Dornay	Prepare for and handle 1/5/21 calendar handle follow up from same multiple calls and emails re pending matters	3.67	\$175.00	\$641.67
1/6/2021	Margita Dornay	Multiple calls and emails re pending matters review new cases for filing	0.83	\$175.00	\$145.83
1/7/2021	Margita Dornay	Draft SOC's for various dispos multiple calls and emails re pending cases	2.25	\$175.00	\$393.75
1/8/2021	Margita Dornay	Multiple calls and emails re pending matters work up pending cases	0.75	\$175.00	\$131.25
1/9/2021	Margita Dornay	Multiple calls from LE re pending investigations	0.25	\$175.00	\$43.75
1/10/2021	Margita Dornay	Multiple calls from law enforcement re field investigations	0.25	\$175.00	\$43.75
1/11/2021	Margita Dornay	Review new cases for filing prepare SOC paperwork for 1/12 cases prepare for 1/12 calendar multiple calls and emails re pending matters	2.25	\$175.00	\$393.75
1/12/2021	Margita Dornay	Prepare for and handle 1/12/20 calendar handle follow up from same review new cases for filing multiple calls and emails re pending matters	3.58	\$175.00	\$627.08
1/13/2021	Margita Dornay	Prepare City's witness list and ER 609 evidence re Douglas Raymond trial prepare subpoenas and multiple emails re Crystal Snow jury trial multiple calls and emails re pending matters	4.25	\$175.00	\$743.75
1/14/2021	Margita Dornay	Review new cases for filing work up 1/19 calendar for Q Dalan multiple calls and emails re pending matters	1.42	\$175.00	\$247.92
1/15/2021	Margita Dornay	Prepare work up and deliver files for Q Dalan for 1/19 calendar multiple calls and emails re pending matters	3.25	\$175.00	\$568.75

Date	Staff	Description	Hours	Rate	Total
1/19/2021	Quinn Dalan	Prepare for and handle 1/19/21 calendar	2.50	\$175.00	\$437.50
1/22/2021	Margita Dornay	Multiple calls and emails re: pending matters, follow up from 1/19 calendar, review new cases for filing	2.25	\$175.00	\$393.75
1/23/2021	Margita Dornay	Prepare for 1/26 calendar, review new cases for	1.08	\$175.00	\$189.58
1/25/2021	Margita Dornay	Prepare for 1/26 calendar, review new cases for filing, multiple calls and emails re: pending matters	2.58	\$175.00	\$452.08
1/26/2021	Margita Dornay	Prepare for and handle 1/26 calendar, handle follow up from same, work up Whitehead trial file	3.58	\$175.00	\$627.08
1/27/2021	Margita Dornay	Review new cases for filing, multiple calls and emails re: pending matters, work up A. Whitehead trial	1.25	\$175.00	\$218.75
1/28/2021	Margita Dornay	Review new cases for filing, multiple calls and email re: pending cases, work up files for upcoming trials (Snow, Whitehead and Raymond)	2.25	\$175.00	\$393.75
1/31/2021	Margita Dornay	Prepare for 2/2 calendar	0.75	\$175.00	\$131.25
		Amount Due	41.90		\$7,335.40

Thank You! - Balance is due upon receipt
1.5% interest per month on unpaid balances

January 2022

Margita A. Dornay, Attorney at Law
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February 03, 2022
Invoice Number 1583

City of Selah (PROSECUTION)
Angela Dean, Accounts Payable
115 W. Naches Ave
Selah, WA 98908

Date	Staff	Description	Hours	Rate	Total
		Previous Balance			\$0.00
1/2/2022	Margita Dornay	Multiple calls from Selah PD re DV assault with dementia suspect	0.25	\$175.00	\$43.75
1/3/2022	Margita Dornay	Prepare for 1/4/22 calendar (for RFN); multiple calls and emails re pending cases; prepare SOC for Vidaies case; review new cases for filing	3.58	\$175.00	\$627.08
1/4/2022	Margita Dornay	Prepare for 1/4/22 calendar; handle 1/4/22 (RFN); calendar; handle follow up from same; review new cases for filing and prepare declines	7.25	\$175.00	\$1,268.75
1/5/2022	Margita Dornay	Multiple calls and emails re pending matters	0.50	\$175.00	\$87.50
1/6/2022	Margita Dornay	Review new cases for filing; work up pending matters; multiple calls and emails re pending matters	2.17	\$175.00	\$379.17
1/7/2022	Margita Dornay	Multiple calls and emails re pending matters; review new cases for filing; work up pending	2.08	\$175.00	\$364.58
1/10/2022	Margita Dornay	Prepare for 1/11 calendar; review new cases for filing; multiple calls and emails re pending matters	2.83	\$175.00	\$495.83
1/11/2022	Margita Dornay	Prepare for and handle 1/11 calendar; follow up from same; review new cases for filing/decline; prepare for 1/18 calendar (for J. Davis); prepare multiple SOC's (Garcia & Cohenour); multiple calls and emails re pending matters	7.25	\$175.00	\$1,268.75
1/12/2022	Margita Dornay	Multiple calls and emails re pending matters; prepare multiple SOC's for entry; work up cases for jury trial (Jason Finley, Estephen Tobias and Florencio Rodriguez); file multiple witness lists re same and prepare subpoenas; work up 1/18/22 calendar for J. Davis	4.50	\$175.00	\$787.50
1/13/2022	Margita Dornay	Multiple calls and emails re pending matters; review new cases for filing; work up 1/18 files	1.75	\$175.00	\$306.25
1/14/2022	Margita Dornay	Handle follow up from 1/11 calendar; review new cases for filing; multiple calls and emails re pending matters	2.00	\$175.00	\$350.00

Date	Staff	Description	Hours	Rate	Total
1/18/2022	Julia Davis	Handle 1/18 calendar (J. Davis)	2.58	\$0.00	\$0.00
1/19/2022	Margita Dornay	Handle follow up from 1/18 calendar: review new cases for filing multiple calls and emails re pending matters	2.58	\$175.00	\$452.08
1/21/2022	Margita Dornay	Multiple calls and emails re pending matters review new cases for filing	1.25	\$175.00	\$218.75
1/23/2022	Margita Dornay	Begin drafting Motion for Joinder for Etephen Tobias work up pending matters draft witness list for Stansell cases	2.58	\$175.00	\$452.08
1/25/2022	Margita Dornay	Prepare for and handle 1/25 calendar handle follow up from same multiple calls and emails re pending matters	3.75	\$175.00	\$656.25
1/26/2022	Margita Dornay	Handle follow up from 1/15 calendar draft and file FTC petition for Neilsen attend graffiti mtg w/YPD	3.25	\$175.00	\$568.75
1/27/2022	Margita Dornay	Review new cases for filing multiple calls and emails re pending matters	2.50	\$175.00	\$437.50
1/28/2022	Margita Dornay	Review new cases for filing work up pending cases multiple calls and emails re pending matters	1.42	\$175.00	\$247.92
1/31/2022	Margita Dornay	Prepare for 2/1/22 calendar (for RFN) handle follow up from same multiple calls and emails re pending matters	3.25	\$175.00	\$568.75
		Amount Due	57.32		\$9,581.24

Thank You! - Balance is due upon receipt
1.5% interest per month on unpaid balances

January 2023

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Yakima, WA 98908
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February 03, 2023
Invoice Number: 1634

City of Selah (PROSECUTION)
Angela Dean, Accounts Payable
115 W. Naches Ave
Selah, WA 98908

Date	Staff	Description	Hours	Rate	Total
		Previous Balance			\$0.00
1/2/2023	Margita Dornay	Prepare for 1/3 calendar, multiple calls and emails re: pending matters; review new cases for filing	3.17	\$175.00	\$554.17
1/3/2023	Margita Dornay	Prepare for and handle 1/3 calendar; handle follow up from same; review new cases for filing; multiple calls and emails re: pending matters	4.67	\$175.00	\$816.67
1/4/2023	Margita Dornay	Review new cases for filing; multiple calls and emails re: pending matters	1.00	\$175.00	\$175.00
1/5/2023	Margita Dornay	Work up 1/10 calendar; review new cases for filing; multiple calls and emails re: pending cases and field investigations	2.25	\$175.00	\$393.75
1/6/2023	Margita Dornay	Multiple calls and emails re: pending matters; review new cases for filing; draft Bryson and Valencia SOC's; prepare B. Hanshew case for trial; prepare B. Johnson case for trial; draft and file Petition to revoke re: Staudmaier case; handle follow up from 1/3/23 calendar	4.25	\$175.00	\$743.75
1/7/2023	Margita Dornay	Work up pending cases; provide Dx and offers for pending cases	1.50	\$175.00	\$262.50
1/9/2023	Margita Dornay	Prepare for 1/10 calendar; multiple calls and emails re: pending matters; work up 1/17 calendar for J. Davis	7.25	\$175.00	\$1,268.75
1/10/2023	Margita Dornay	Prepare for and handle 1/10 calendar; handle follow up from same; review new cases for filing; prepare 1/17 calendar for J. Davis; multiple calls and emails re: pending matters	6.50	\$175.00	\$1,137.50
1/11/2023	Margita Dornay	Handle follow up from 1/10 calendar; prepare and file witness list re: Freyermoth; multiple calls and emails re: pending matters; draft Luthi SOC; work up Nieto Ruiz for trial	4.50	\$175.00	\$787.50
1/12/2023	Margita Dornay	Multiple calls and emails re: pending matters; review new cases for filing	1.50	\$175.00	\$262.50
1/13/2023	Margita Dornay	Review new cases for filing; multiple calls and emails re: pending matters	1.17	\$175.00	\$204.17

Date	Staff	Description	Hours	Rate	Total
1/17/2023	Julia Davis	Prepare for and handle 1/17/23 calendar	0 00	\$175 00	\$0 00
1/18/2023	Margita Dornay	Review new cases for filing multiple calls and emails re pending matters	0 75	\$175 00	\$131 25
1/20/2023	Margita Dornay	Handle follow up from 1/17 calendar multiple calls and emails re pending matters	2 25	\$175 00	\$393 75
1/22/2023	Margita Dornay	Handle follow up from 1/17 calendar review new cases for filing and/or decline multiple emails re pending matters	5 67	\$175 00	\$991 67
1/23/2023	Margita Dornay	Prepare for 1/24/23 calendar review new cases for filing multiple calls and emails re pending matters	3 50	\$175 00	\$612 50
1/24/2023	Margita Dornay	Prepare for and handle 1/24 calendar multiple calls and emails re pending matters	5 00	\$175 00	\$875 00
1/25/2023	Margita Dornay	Multiple calls and emails re pending matters	0 58	\$175 00	\$102 08
1/26/2023	Margita Dornay	Multiple calls and emails re pending matters review new cases for filing	1 17	\$175 00	\$204 17
1/27/2023	Margita Dornay	Review new cases for filing work up pending matters multiple calls and emails re pending case	1 75	\$175 00	\$306 25
1/29/2023	Margita Dornay	Work up pending cases draft Nuiser and Wagner SOC's work up B Johnson trial	2 50	\$175 00	\$437 50
1/30/2023	Margita Dornay	Prepare for 1/31 calendar multiple calls and emails re pending matter review new cases for filing draft FTC petition re M Garcia work up Johnson and Nieto trial files	3 33	\$175 00	\$583 33
1/31/2023	Margita Dornay	Prepare for and handle 1/31 calendar handle follow up from same draft Siaves witness list multiple calls and emails re pending matters work up Ruiz Nieto matter for trial	8 25	\$175 00	\$1,443 75
Amount Due			72 51		\$12,687 51

Thank You! - Balance is due upon receipt
1.5% interest per month on unpaid balances



Selah City Council
Regular Meeting
AGENDA ITEM SUMMARY

Meeting Date: 4/11/2023

Agenda Number: **14-A**

Action Item

Title: ORDINANCE of the City of Selah, Washington, relating to the sewer system of the City; providing for the issuance of a taxable sewer revenue bond of the City in the principal amount of \$2,111,000, for the purpose of providing funds to pay costs of the acquisition, construction and installation of improvements to the City's sewer system; fixing the terms and covenants of the bond; creating, adopting and continuing certain funds and accounts; providing for the issuance of additional bonds; approving the sale and providing for the delivery of the bond to the United States of America, acting through the United States Department of Agriculture; and providing for related matters.

From: Rocky D. Wallace, Public Works Director

Action Requested: Approval

Staff Recommendation: Approval

Board/Commission Recommendation: N/A

Fiscal Impact: \$2,111,000.00

Funding Source: 415

Background/Findings/Facts: The City has received loan funding to complete the Wastewater Collection System Improvements project from the United States Department of Agriculture (USDA). A condition of the Funding Agreement with USDA is that the City must obtain interim financing, in the amount of the USDA Loan, which is \$2,111,000.00. The purpose of the interim financing is to preclude the need for multiple advances or payment requests to the agency, and instead secure a loan from a commercial source to fund the portion of the project approved for funding by the USDA. Once the interim financing funds have been spent and the project is substantially complete, USDA will pay off the City's (interim financing) loan to the bank and a new loan in the amount of \$2,111,000.00 will be issued to the City from the USDA in the form of a bond.

Council declared the project substantially complete during the March 28, 2023 regular Council meeting.

It is now time to adopt the Bond ORDINANCE to facilitate the USDA pay off of the City's (interim financing) loan to Banner Bank

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:
3/28/2023	Resolution No. 2995 declaring the Wastewater Collection System Improvements Project as substantially complete
2/28/2023	Resolution No. 2988 authorizing the Mayor to sign, on behalf of the City, Change Order No. 04 with Belsaas and Smith Construction, Inc. Pertaining to the Wastewater Collection System Improvements Project.
1/24/2023	Resolution No. 2974 authorizing the Mayor to sign, on behalf of the City, Amendment No. 2 to the owner-engineer agreement with HLA Engineering and Land surveying, Inc., pertaining to the Wastewater Collection Systems Improvements Project.
7/12/2022	Resolution No. 2930 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 System Improvements Project
7/12/2022	Resolution No. 2929 authorizing the Mayor to sign construction contract Change Order No. 3 between the City of Selah and Belsaas & Smith for the 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
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
12/14/2021	A Resolution No. 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
12/7/2021	Bid Opening
11/22/2021	Advertisement for Bids
11/15/2021	Advertisement for Bids
5/26/2021	USDA Rural Development Letter- Approval to proceed to Bid
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.

7/23/2019

Resolution No. 2746 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

CITY OF SELAH, WASHINGTON

ORDINANCE NO. 2142

AN ORDINANCE of the City of Selah, Washington, relating to the sewer system of the City; providing for the issuance of a taxable sewer revenue bond of the City in the principal amount of \$2,111,000, for the purpose of providing funds to pay costs of the acquisition, construction and installation of improvements to the City's sewer system; fixing the terms and covenants of the bond; creating, adopting and continuing certain funds and accounts; providing for the issuance of additional bonds; approving the sale and providing for the delivery of the bond to the United States of America, acting through the United States Department of Agriculture; and providing for related matters.

PASSED: April 11, 2023

*Prepared by:
Foster Garvey P.C.
1111 Third Avenue, Suite 3000
Seattle, Washington 98101
(206) 447-6264*

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** The cover page, table of contents and section headings of this ordinance are for convenience of reference only, and shall not be used to resolve any question of interpretation of this ordinance.*

CITY OF SELAH, WASHINGTON

ORDINANCE NO. 21412

AN ORDINANCE of the City of Selah, Washington, relating to the sewer system of the City; providing for the issuance of a taxable sewer revenue bond of the City in the principal amount of \$2,111,000, for the purpose of providing funds to pay costs of the acquisition, construction and installation of improvements to the City's sewer system; fixing the terms and covenants of the bond; creating, adopting and continuing certain funds and accounts; providing for the issuance of additional bonds; approving the sale and providing for the delivery of the bond to the United States of America, acting through the United States Department of Agriculture; and providing for related matters.

THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, DO ORDAIN as follows:

Section 1. Definitions

The words and phrases set forth in this Ordinance with initial capitalization have the respective meanings ascribed to such words and phrases in this section unless the context clearly requires otherwise.

(a) "Annual Debt Service" means, with respect to Parity Bonds for any calendar year, all the interest due on Parity Bonds in such year, plus all principal of the Parity Bonds (including any such principal scheduled to be paid by means of mandatory redemption and sinking fund payment requirements), which will mature or become due in such year, less (except so long as the Purchaser is the Registered Owner of the Bond) all capitalized interest payable in such year from the proceeds of any such bonds.

(b) "Average Annual Debt Service" means for Parity Bonds, the sum of the Annual Debt Service for the remaining years to the last scheduled maturity of such Parity Bonds divided by the integral number of those years.

(c) "Bond" means the taxable sewer revenue bond of the City authorized to be issued pursuant to Section 4 of this Ordinance.

(d) "Bond Counsel" means the firm of Foster Garvey P.C., its successor or any other attorneys or firm of attorneys with a nationally recognized standing as bond counsel in the field of municipal finance selected by the Council.

(e) "Bond Register" means the registration books maintained by the Bond Registrar pursuant to Section 5 of this Ordinance.

(f) "Bond Registrar" means (i) the Treasurer, or (ii) upon a determination by the Treasurer that maintenance of the duties of the Bond Registrar is no longer convenient, a successor appointed by the Treasurer willing and able to accept the duties of Bond Registrar on reasonable and customary terms and authorized by law to serve as authenticating agent, transfer agent,

registrar and paying or other fiscal agent of the City with respect to the Bond and perform all the duties imposed upon it by this Ordinance.

(g) "City" means the City of Selah, Washington.

(h) "Clerk" means the *de facto* or *de jure* Clerk of the City, or other officer of the City who is the custodian of the seal of the City and of the records of the proceedings of the Council, and any successors in functions of such office.

(i) "Code" means the Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

(j) "Commencement Date" means the date that is 12 months after the Dated Date; *provided*, if the Dated Date is the 29th, 30th or 31st day of the month, the Commencement Date will be the 28th day of the twelfth month thereafter.

(k) "Construction Account" means the account of that name referred to in Section 10 of this Ordinance.

(l) "Council" means the City Council of the City.

(m) "Dated Date" means the date the Bond is issued and delivered to the Purchaser.

(n) "Debt Service Account" means the account of that name referred to in Section 10 of this Ordinance for the payment of the principal of and interest on the Interim Loan and Parity Bonds.

(o) "Debt Service Reserve Account" means the account of that name referred to in Section 10 of this Ordinance for the purpose of securing the payment of principal of and interest on Parity Bonds.

(p) "Future Parity Bonds" means any and all revenue bonds of the City hereafter issued, the payment of which, both principal and interest, constitutes a lien and charge upon Net Revenue and Sewer ULID Assessments equal in rank with the lien and charge upon Net Revenue and Sewer ULID Assessments for the payments required to pay and secure the payment of the then-outstanding Parity Bonds.

(q) "Gross Revenue" means all of the earnings and revenues received from the operation and maintenance of the System, and earnings from the investment of money on deposit in the various accounts of the System. Gross Revenue also includes all earnings from the investment of money on deposit in the Debt Service Account; and all System connection and capital improvement charges. Gross Revenue does not include: (1) principal proceeds of Future Parity Bonds or any other borrowings, (2) amounts collected in respect of City-imposed utility taxes, (3) earnings or proceeds from any investments in a trust account created to defease or refund revenue obligations of the System or held in a special account for the purpose of paying a rebate to the United States of America under the Code, (4) local improvement district assessments (including Sewer ULID Assessments), (5) grants, gifts, income and revenue which are restricted or may not legally be pledged for revenue bond debt service, (6) payments received in respect of any bond insurance policy or reserve surety, or insurance or condemnation proceeds used for the

replacement of capital projects or equipment, (7) proceeds from the sale of System property; (8) any tax credit subsidy payments; or (9) any revenue from a separate utility system.

(r) “Installment Payment Date” means the Commencement Date and each anniversary thereof to and including the final maturity of the Bond.

(s) “Interest Rate” means the *per annum* interest rate specified by the Purchaser for the Bond pursuant to the Purchaser’s Water and Environmental Program. Such rate is expected to be the lower of (i) the applicable interest rate as of the date the Purchaser mails a signed copy of Form 1940-1 with regard to the Bond to the City or (ii) the applicable interest rate on the Dated Date.

(t) “Interim Loan” means the aggregate amount borrowed by the City under the line of credit incurred by the City, pursuant to the Purchaser’s requirements, to pay costs of the Project pending receipt of Bond proceeds.

(u) “Interim Loan Ordinance” means Ordinance No. 2148 passed by the Council and approved by the Mayor on December 14, 2021, authorizing the issuance of the Interim Loan.

(v) “Junior Lien Obligation” has the meaning specified in Section 2(b) hereof.

(w) “Letter of Conditions” has the meaning specified in Section 2(c) hereof.

(x) “Loan Resolution” means the RUS Bulletin 1780-27 “Loan Resolution (Public Bodies)” adopted by the Council on April 11, 2023, pursuant to the loan conditions established by the Purchaser.

(y) “Maximum Annual Debt Service” means the maximum amount of Annual Debt Service which will become due in any future year on Parity Bonds.

(z) “Mayor” means the *de facto* or *de jure* Mayor of the City (including the Mayor *pro tempore* in the Mayor’s absence or disability), or any presiding officer or titular head of the City, and any successors in functions of such office.

(aa) “Net Revenue” means Gross Revenue less Operating and Maintenance Expenses.

(bb) “Operating and Maintenance Expenses” means all reasonable expenses incurred by the City in causing the System to be operated and maintained in good repair, working order and condition, including general maintenance and administrative costs of the City allocated to the System, but does not include non-cash accounting items (*e.g.*, depreciation, amounts treated as expenses under accounting guidelines with respect to unfunded contributions to pension or other post-employment benefit plans, non-exchange financial guarantees, potential environmental liabilities, or similar items) or capital additions or capital replacements to the System.

(cc) “Ordinance” means this Ordinance passed by the Council and approved by the Mayor on April 11, 2023.

(dd) “Parity Bonds” means the Bond and any Future Parity Bonds.

(ee) “Project” means the plan of additions to and betterments and extensions of the System as more particularly described in the Interim Loan Ordinance.

(ff) “Purchaser” means the United States of America, acting through the United States Department of Agriculture.

(gg) “RCW” means the Revised Code of Washington.

(hh) “Registered Owner” means the entity or person named as the registered owner of the Bond on the Bond Register, initially the Purchaser.

(ii) “Reserve Requirement” means, with respect to the Bond, an amount equal to the Annual Debt Service for the Bond, to be accumulated by the tenth anniversary of the Dated Date in approximately equal monthly payments commencing with the first month following the Dated Date. Any ordinance authorizing Future Parity Bonds shall specify the amount, if any, to be held as a “reserve requirement” for such Future Parity Bonds. For as long as the Purchaser is the Registered Owner and the Bond is outstanding, any ordinance authorizing Future Parity Bonds shall specify the amount no less than equal to the Annual Debt Service for such Future Parity Bonds to be accumulated no later than the tenth anniversary of the date of issue, if any, to be held as a “reserve requirement” for such Future Parity Bonds.

(jj) “Revenue Fund” means the City’s existing Sewer Fund, which is an enterprise fund of the City in which Gross Revenue is deposited.

(kk) “Short-Lived Asset Reserve Account” means the account of that name referred to in Section 10 of this Ordinance.

(ll) “Short-Lived Assets” means those assets described by the Purchaser and referenced in the Letter of Conditions.

(mm) “State” means the State of Washington.

(nn) “System” means the existing sewer system of the City, together with all additions thereto and betterments and extensions thereof at any time made or constructed.

(oo) “Sewer ULID” means any utility local improvement district of the City created for the purpose of financing improvements to the System, and if the water and sewer systems of the City are later combined, any ULID thereafter created for water or sewer improvements, or both.

(pp) “Sewer ULID Assessments” means the assessments levied in any Sewer ULID created pursuant to State law in connection with an improvement to the System financed by the issuance of Future Parity Bonds, the assessments in which are pledged to be paid into the Debt Service Account, including installments thereof and interest and any penalties thereon.

(qq) “Treasurer” means the *de facto* or *de jure* Treasurer of the City, and any successors in functions of such office.

Section 2. Recitals

The Council takes note of the following facts and makes the following findings and determinations:

(a) The City is a municipal corporation and code city duly organized and existing under the laws of the State. Pursuant to chapters 35.67, 35.92 and 35A.80 RCW, among other authorities, the City is authorized to acquire, construct, install, operate and maintain a sewer system (*i.e.*, the System). The City has not combined its sewer system with either its water system or its refuse collection and disposal system. The City is authorized to conduct proceedings and to issue revenue bonds pursuant to chapters 35.41, 35.67, 35.92, 35A.40 and 39.46 RCW, among other authorities.

(b) The City has an outstanding loan from the State Public Works Board (the "Junior Lien Obligation"). To the extent the Junior Lien Obligation is payable from System revenue, the Junior Lien Obligation does not prohibit the City from issuing revenue obligations having a lien or charge on System revenue prior and superior to that of the Junior Lien Obligation. Upon the issuance of the Bond, the lien or charge on System revenue of the Junior Lien Obligation will be subordinate to that of the Bond.

(c) The Purchaser provided the City with a Letter of Conditions dated June 21, 2021 (together with any amendments thereto, the "Letter of Conditions"), establishing the conditions under which the Purchaser would loan money to the City to pay costs of the Project. The Council adopted the Loan Resolution. RCW 39.69.020 authorizes the City to enter into a loan agreement with the Purchaser and to evidence the City's obligation to repay the loan under the terms and conditions of such loan agreement. RCW 36.69.020 further authorizes such loan agreement to provide that the City repay the loan solely from revenues set aside in a special fund for the repayment of the loan. Chapter 39.48 RCW authorizes the City to sell the Bond to the Purchaser by private sale at a price of not less than par plus accrued interest. The Purchaser has offered to purchase the Bond according to the terms set forth herein and in the Letter of Conditions.

(d) It is advisable for the City to acquire, construct and install the Project. In determining the costs of the Project pursuant to RCW 35.41.090, the Council estimates that the total costs of the Project will be at least \$2,374,611. It is advisable for the City to provide funds for defraying a portion of the cost of the Project from the proceeds of the sale of a revenue bond (*i.e.*, the Bond).

(e) The Gross Revenue and benefits to be derived from the operation and maintenance of the System, at the rates to be charged for service from the System, will be more than sufficient to meet all Operating and Maintenance Expenses and, together with Sewer ULID Assessments, will be more than sufficient to permit the setting aside into the Debt Service Account out of the Gross Revenue amounts to pay the principal of and interest on the Bond when due and to make payments into the reserve accounts. In fixing the amounts to be paid into the Debt Service Account out of Gross Revenue, the Council has had due regard for Operating and Maintenance Expenses and the payments required to be made for the Bond and other obligations payable from Gross Revenue. The Council has not obligated the City to set aside into the Debt Service Account a greater amount of Gross Revenue than, in the Council's judgment, will be available over and above Operating and Maintenance Expenses and the amount of Gross Revenue previously pledged for the payment of outstanding obligations.

(f) Based on the foregoing, it is in the City's best interest to authorize (i) the issuance of the Bond to evidence the City's obligation to repay the loan from the Purchaser, (ii) the repayment of the Interim Loan, and (iii) the delivery of the Bond to the Purchaser upon the terms set forth in this Ordinance.

Section 3. The Project

The City hereby ratifies its plan for accomplishing the Project as set forth in Section 3 of the Interim Loan Ordinance, all as more particularly described in the plans and specifications prepared by HLA Engineering and Land Surveying, Inc., consulting engineers to the City, and now on file in the office of the Clerk-Treasurer. The total cost of the Project is estimated to be at least \$2,374,611. The Council may make such changes prior to or during the actual construction of the Project where, in its judgment, it appears advisable.

Section 4. Authorization and Description of the Bond

(a) For the purpose of paying costs of the Project, including paying the costs of issuing the Bond and repaying the Interim Loan, the City shall cause to be issued a single, taxable sewer revenue bond as set forth in this Ordinance. The Bond shall be a special obligation of the City payable from Net Revenue and Sewer ULID Assessments. The Bond shall not be a general obligation of the City. The City's full faith, credit and resources are not pledged for the payment of the Bond.

(b) The Bond shall be dated its Dated Date; shall be designated as the "Sewer Revenue Bond, 2023 (Taxable)" of the City; shall be in the principal amount of \$2,111,000; shall mature on the Installment Payment Date that occurs on (or immediately before) the 40th anniversary of the Dated Date (or such earlier date that the principal of and interest on the Bond is fully paid); shall bear interest from the Dated Date at the Interest Rate on its outstanding principal balance (computed on the basis of a 365-day year for actual number of days elapsed); shall be numbered R-1, with any additional designation as the Bond Registrar deems necessary for purposes of identification; and shall be issued only in registered form as to both principal and interest on the Bond Register. Principal of and interest on the Bond shall be payable in equal annual amortized installments on each Installment Payment Date, beginning with the Commencement Date, in an amount required to amortize the Bond over the term thereof, except that the last such payment shall be in an amount equal to the remaining principal and interest due on the Bond. Bond proceeds shall be used to pay the principal of and interest on the Interim Loan before Bond proceeds can be used for the other purposes authorized herein. The Interim Loan shall be paid and redeemed as soon as practicable after the Bond is issued. The Treasurer is hereby authorized to cause any notice of redemption to be given in the manner required by the Interim Loan and to do everything necessary to accomplish the repayment and redemption of the Interim Loan.

Section 5. Appointment of Bond Registrar; Registration and Transfer of the Bond

(a) Pursuant to RCW 39.46.030(4), the Treasurer is appointed as the initial Bond Registrar for the Bond. The Bond Registrar shall keep, or cause to be kept, at its office, sufficient books for purposes of registering the name, mailing address and taxpayer identification number of the Registered Owner, and for registering any transfer of Bond ownership (*i.e.*, the "Bond Register"). The Bond Register shall at all times be open to inspection by the City. In addition to maintaining the Bond Register, the Bond Registrar is authorized and directed to perform the following

duties with respect to the Bond: (i) to authenticate the Bond upon the initial issuance thereof by executing the Certificate of Authentication contained thereon; (ii) to authenticate and deliver any Bond that is transferred in accordance with the provisions thereof and this Ordinance; (iii) to serve as the City's paying agent for the Bond; (iv) to imprint on each Bond transferred or exchanged pursuant to this Ordinance the name of the Registered Owner, the principal amount of the Bond, the interest rate borne by the Bond, and the maturity date of the Bond; (v) to cancel the Bond returned to the Bond Registrar upon the payment in full thereof by punching holes through the signatures on the Bond and by writing clearly across the face of such Bond the word "cancelled;" and (vi) to carry out all of the Bond Registrar's duties otherwise described in this Ordinance. The Bond Registrar shall be responsible for its representations contained in the Certificate of Authentication on the Bond.

(b) The Bond may be transferred only in whole and only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any transfer shall be without cost to the Registered Owner or transferee and shall be noted in the Bond Register. The Bond Registrar shall not be obligated to transfer the Bond during the 15 days preceding any Installment Payment Date.

Section 6. Payment of the Bond

Installments of principal and interest on the Bond shall be payable in lawful money of the United States of America and shall be paid by preauthorized debit of the Bond Registrar and sent to the Registered Owner so that the Registered Owner receives said payments when due at the address appearing on the Bond Register; *provided*, if the Registered Owner is other than the Purchaser, then the last installment of principal and interest on the Bond shall be payable only upon presentation and surrender of the Bond by the Registered Owner at the office of the Bond Registrar. Notwithstanding the foregoing, the City may engage in any payment program established by the Purchaser from time to time, so long as the City can engage in such program under State law. The Bond Registrar shall destroy the Bond when surrendered for final payment and furnish the City a certificate of destruction within 30 days following the surrender and payment in full of the Bond.

Section 7. Failure to Pay Installments

If any installment of principal of and interest on the Bond is not paid when due, the City shall be obligated to pay interest on that installment at the same rate provided in the Bond from and after its payment date until that installment, both principal and interest, is paid in full.

Section 8. Optional Payment; Notice

Prepayments of scheduled installments on the Bond, or any portion thereof, may be made at any time at the option of the City. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Bond, shall, after payment of interest, be applied to the installments last to become due under the Bond. Partial prepayment shall not affect the obligation of the City to pay the remaining installments as scheduled. Notice of any such optional prepayment shall be given at least 10 days prior to the prepayment date by mailing to the Registered Owner a notice fixing such prepayment date and specifying the amount to be prepaid.

Section 9. Execution, Issuance and Delivery of the Bond and Related Documents

(a) The City will issue and deliver the Bond to the Purchaser on the date the Purchaser pays the City \$2,111,000 in exchange therefor. The Bond shall be prepared in a form consistent with the provisions of this Ordinance and State law, shall be signed by the Mayor and Clerk, either or both of whose signatures may be manual or in facsimile, and shall have the seal of the City (or a facsimile reproduction thereof) impressed or printed thereon.

(b) No Bond is valid or obligatory for any purpose, or entitled to the benefits of this Ordinance, unless such Bond bears a certificate of authentication manually signed by the Bond Registrar stating: "This Bond is the fully registered City of Selah, Washington, Sewer Revenue Bond, 2023 (Taxable), described in the Bond Ordinance." A minor deviation in the language of such certificate shall not void a certificate of authentication that otherwise is substantially in the form of the foregoing. The authorized signing of a certificate of authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this Ordinance.

(c) The Mayor and the Clerk-Treasurer, or their designees, are severally authorized and directed to: (i) do everything necessary for the execution, issuance and delivery of the Bond; and (ii) execute and deliver any documents, agreements, certificates, receipts and instruments that are necessary or appropriate in their discretion to give effect to this Ordinance and to consummate the borrowing of money authorized herein.

(d) The City directs Bond Counsel to prepare the Bond and such other documents, agreements, certificates, receipts and instruments as may be necessary and appropriate to properly document the issuance and delivery of the Bond to the Purchaser and the receipt of money by the City from the Purchaser. Bond Counsel shall coordinate the execution and delivery of such documents on behalf of the City, and shall compile and distribute to the City and the Purchaser a transcript containing such documents (or copies thereof) as it deems necessary to support its legal opinions rendered in connection with the issuance of the Bond.

Section 10. Creation or Continuance of Funds

(a) *Creation or Continuance of Funds.* The following fund and accounts shall be created (or if previously created, shall be continued) and maintained in the office of the Treasurer to comply with the provisions of this Ordinance: (i) the Revenue Fund; (ii) a debt service account within the Revenue Fund (the "Debt Service Account"); (iii) a debt service reserve account within the Revenue Fund (the "Debt Service Reserve Account"); (iv) a project account within the Revenue Fund (the "Construction Account"); and (v) an asset replacement reserve account within the Revenue Fund (the "Short-Lived Asset Reserve Account"). Each fund and account shall be maintained by the Treasurer as a separate and distinct fund or account to be held, managed, invested, disbursed and administered as provided in this Ordinance. All money deposited in the accounts created hereunder shall be used solely for the purposes set forth in this Ordinance. The Treasurer shall keep and maintain adequate records pertaining to each fund and account, and all disbursements therefrom, in accordance with general practices and procedures in effect from time to time. The Treasurer may establish such additional accounts or subaccounts as is deemed necessary or useful, or for the purpose of complying with the requirements of the Code relating to arbitrage, but the establishment of any such account or

subaccount shall not alter or modify any of the requirements of this Ordinance with respect to a deposit or use of money in the funds or accounts.

(b) *Debt Service Account.* Proceeds of the Bond in an amount sufficient to pay the principal of and interest on the Interim Loan shall be deposited in the Debt Service Account and used for such purpose as soon as practicable pursuant to Section 4(b) hereof. Thereafter, the Debt Service Account is to be drawn upon for the sole purpose of paying the principal of and interest on Parity Bonds. For so long as any principal of the Bond is outstanding against the Debt Service Account, the City shall pay into the Debt Service Account all Sewer ULID Assessments on their collection and, from Net Revenue, pay into the Debt Service Account prior to each Installment Payment Date an amount that is sufficient (together with other money on deposit in the Debt Service Account) to pay the installment of principal and interest falling due on such Installment Payment Date. The City may (but shall not be required to) transfer any money from any funds or accounts of the City legally available therefor to meet the required payments to be made into the Debt Service Account.

(c) *Debt Service Reserve Account.* The Debt Service Reserve Account shall be maintained for the purpose of securing the payment of the principal of and interest on Parity Bonds, and shall be used solely for the purpose of making up any deficiency existing in the Debt Service Account to meet maturing installments of either principal or interest, as the case may be, on any outstanding bonds payable out of the Debt Service Account. So long as any principal of the Bond is outstanding, the City shall deposit into the Debt Service Reserve Account the Reserve Requirement for the Bond (at the times and in the amounts described in the definition of "Reserve Requirement" in Section 1 hereof). When the Debt Service Reserve Account is funded at the Reserve Requirement for the Bond, the City will at all times maintain at least such amount therein (except to the extent withdrawals are made from the Debt Service Reserve Account as authorized by this Ordinance). For so long as the Purchaser is the Registered Owner, the amount held in the Debt Service Reserve Account for the Bond shall not be available to fund payments for Future Parity Bonds. Any deficiency created in the Debt Service Reserve Account by reason of a withdrawal therefrom shall then be made up from money derived from Net Revenue first available after making necessary provisions for the payment of Operating and Maintenance Expenses and the required payments into the Debt Service Account. The City may use any excess money in the Debt Service Reserve Account to make extra payments on the Bond in the manner authorized by Section 8 of this Ordinance. The money and investments in the Debt Service Reserve Account otherwise shall be held intact and may be applied against the last outstanding bonds payable out of the Debt Service Account. For so long as the Purchaser is the Registered Owner, the City shall not disburse or withdraw money from the Debt Service Reserve Account without receiving the prior written consent of the Purchaser; *provided*, if the Purchaser is no longer the Registered Owner, or upon the consent of the Purchaser if the Purchaser remains the Registered Owner, the City may create one or more subaccounts in the Debt Service Reserve Account in connection with the issuance of Future Parity Bonds and, if such subaccounts are funded from the proceeds of such Future Parity Bonds, from Net Revenue and/or from Sewer ULID Assessments, may provide in the ordinance(s) authorizing such Future Parity Bonds that money may be withdrawn from such subaccounts without the Purchaser's prior written consent.

(d) *Construction Account.* Bond proceeds not deposited into the Debt Service Account pursuant to subsection (b) above, if any, shall be deposited into the Construction Account. The costs of carrying out the Project, including the costs of issuing the Bond, shall be paid from the Construction Account. All withdrawals from the Construction Account shall be approved by the Purchaser.

(e) *Short-Lived Asset Reserve Account.* The Short-Lived Asset Reserve Account shall be maintained for the exclusive purpose of replacing Short-Lived Assets. The City shall deposit at least \$28,117 annually into the Short-Lived Asset Reserve Account. The first deposit into the Short-Lived Asset Reserve Account shall be made no later than the Commencement Date. Amounts on deposit from time to time in the Short-Lived Asset Reserve Account are not pledged to the payment of Parity Bonds. For so long as the Purchaser is the Registered Owner, the City shall not disburse money from the Short-Lived Asset Reserve Account without receiving the prior written consent of the Purchaser.

(f) *Investment of Funds.* The money in the Construction Account and the Short-Lived Asset Reserve Account may be kept in cash or deposited in institutions permitted by law in an amount in each institution not greater than the amount insured by a state or the Federal Government, or may be invested in readily marketable securities backed by the full faith and credit of the United States of America maturing (or subject to sale by the City) not later than the time such money must be expended from the account so invested. The money in the Debt Service Account and the Debt Service Reserve Account may be invested in any readily marketable investment permitted by law for City funds. The interest and investment earnings on such accounts shall be used as follows: (i) interest and investment earnings on amounts in the Debt Service Account shall be retained in the Debt Service Account and used to pay debt service on Parity Bonds; (ii) interest and investment earnings on amounts in the Debt Service Reserve Account shall be retained in the Debt Service Reserve Account until the total Reserve Requirement has been accumulated therein, after which time such earnings shall be deposited in the Debt Service Account; (iii) interest and investment earnings on amounts in the Construction Account may be retained in such account or, at the City's discretion, may be deposited into the Debt Service Account; and (iv) interest and investment earnings on amounts in the Short-Lived Asset Reserve Account shall be retained in such account and used for the purposes of such account. Notwithstanding the provisions for the deposit of earnings, any earnings which are subject to a federal tax or rebate requirement may be withdrawn from any such fund or account for deposit in a separate fund or account for that purpose.

Section 11. Flow of Funds

All Sewer ULID Assessments shall be paid into the Debt Service Account and, if permitted by the ordinance confirming the assessment roll for such Sewer ULID Assessments, into the Debt Service Reserve Account, as provided by this Ordinance. Gross Revenue shall be allocated to the Revenue Fund, shall be used for the following purposes only, and shall be applied in the following order of priority:

- (a) to pay Operating and Maintenance Expenses;
- (b) to pay principal of and interest on Parity Bonds;
- (c) to make all deposits required to be made into the Debt Service Reserve Account pursuant to this Ordinance and any ordinance authorizing the issuance of Future Parity Bonds;
- (d) to make all deposits required to be made into the Short-Lived Asset Reserve Account pursuant to this Ordinance and any ordinance authorizing the issuance of Future Parity Bonds; and
- (e) to pay principal of and interest on subordinate lien obligations and to make any other payments, transfers or deposits for System purposes as may be lawful for Gross Revenue.

Section 12. Pledge of Revenue and Lien Position

Net Revenue and all Sewer ULID Assessments are hereby pledged irrevocably by the City for the payment of the Bond and shall be used and applied in the order of priority provided in Section 11 of this Ordinance. This pledge shall constitute a lien and charge upon Net Revenue and Sewer ULID Assessments prior and superior to any other lien and charge whatsoever, except such liens and charges as hereafter may be created in favor of Future Parity Bonds on a parity with this pledge in favor of the Bond. The Bond is not a general obligation of the City, and the City's full faith, credit and resources are not pledged for the payment of the Bond. The lien created by this Ordinance is declared to be senior to the lien created by the Junior Lien Obligation.

Section 13. Covenants

The City hereby covenants and agrees with the Registered Owner as follows:

(a) All Sewer ULID Assessments shall be paid into the Debt Service Account and/or the Debt Service Reserve Account and may be used to pay the principal of and interest on Parity Bonds without those Sewer ULID Assessments being particularly allocated to the payment of the principal of and interest on any particular issue of bonds. Nothing in this Ordinance shall be construed to prohibit the City from issuing revenue bonds (or incurring other obligations) with a lien or charge subordinate to the lien on the Bond and pledging as security for their payment assessments levied in any Sewer ULIDs which may have been specifically created to pay part of the cost of improvements to the System for which those subordinate lien obligations were specifically issued. Notwithstanding the foregoing, for so long as the Purchaser is the Registered Owner, the City will not issue subordinate lien obligations payable from Net Revenue without receiving the prior written consent of the Purchaser.

(b) The City will establish, maintain and collect such rates and charges for the commodities and services furnished by the System, which shall be fair and nondiscriminatory, as will produce sufficient Gross Revenue to: (i) meet Operating and Maintenance Expenses; (ii) meet the debt service requirements of Parity Bonds and any other obligations payable from Gross Revenue as they come due; (iii) establish and maintain the Debt Service Reserve Account; (iv) for so long as the Purchaser is the Registered Owner, establish and maintain the Short-Lived Asset Reserve Account; and (v) maintain the System in sound financial condition.

(c) The City will at all times maintain and keep the System in good repair, working order and condition, and also will at all times operate the System and the business in connection therewith in an efficient manner and at a reasonable cost.

(d) The City will, while the Bond remains outstanding, keep proper and separate accounts and records relating to the operation and financial condition of the System and, for so long as the Purchaser is the Registered Owner, will grant the Purchaser the right at all reasonable times to inspect the System and all records, accounts and data of the City relating thereto.

(e) The City will, for so long as the Purchaser is the Registered Owner: submit to the Purchaser an annual operating budget relating to the System; submit to the Purchaser audits (or management reports in lieu of audits) relating to the System, as determined by the Purchaser on an annual basis; and provide such additional information and reports as may be reasonably requested by the Purchaser from time to time.

(f) The City will at all times: (i) provide fidelity bonds (or similar insurance coverage) in an amount not less than the total of the Annual Debt Service and the annual Debt Service Reserve Account payment on the Bond for all persons who will have access to Gross Revenue and the funds created hereunder; (ii) maintain fire and extended coverage insurance in an amount at least equal to the depreciated replacement value for all equipment, machinery and above-ground structures of the System; (iii) maintain reasonable and customary general liability insurance for the System including vehicular coverage; and (iv) maintain worker's compensation insurance.

(g) The City will not furnish commodities or services of the System to any customer whatsoever free of charge, and the City will take such legal action as may be feasible to enforce collection of all collectible delinquent accounts.

(h) For so long as the Purchaser is the Registered Owner, the City will not mortgage, sell, lease or in any manner encumber or dispose of all or any portion of the property of the System without receiving the prior written consent of the Purchaser.

(i) The City will not borrow money and secure its repayment obligations for such borrowing with a lien and charge on Net Revenue that is prior to the lien thereon in favor of the Bond. The City will not borrow money and secure its repayment obligations for such borrowing with a lien and charge on Net Revenue that is equal to the lien thereon in favor of the Bond other than pursuant to Section 14 of this Ordinance.

(j) The City will abide by the Letter of Conditions and the Loan Resolution relating to the Bond for so long as the Purchaser is the Registered Owner.

(k) For so long as the Purchaser is the Registered Owner, the Bond shall be subject to the present regulations of the Purchaser or its successor agency. For so long as the Purchaser is the Registered Owner, if at any time the Purchaser notifies the City that the City may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, the City shall, upon request by the Purchaser, apply for and accept such loan in sufficient amount to repay the Purchaser, and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

Section 14. Issuance of Future Parity Bonds

The City reserves the right to issue Future Parity Bonds that, when issued, shall constitute a lien and charge upon Net Revenue and Sewer ULID Assessments on a parity with the Bond for the purposes of: (i) acquiring, constructing and installing additions and betterments to, improvements and extensions of, and repairs or capital improvements to, the System; and/or (ii) refunding and retiring at or prior to their maturity any part or all of the outstanding obligations of the City relating to the System, if the following conditions are met and complied with at the time of issuance of those Future Parity Bonds:

(a) There shall be no deficiency in the Debt Service Account or the Debt Service Reserve Account.

(b) The ordinance providing for the issuance of such Future Parity Bonds shall provide that all assessments and interest thereon that may be levied in any Sewer ULID created for the purpose of paying, in whole or in part, the principal of and interest on those Future Parity Bonds, shall be paid

directly into the Debt Service Account, except for any prepaid assessments permitted by law to be paid into a construction fund or account.

(c) The ordinance providing for the issuance of such Future Parity Bonds shall provide for the payment of the principal thereof and interest thereon out of the Debt Service Account.

(d) The ordinance providing for the issuance of such Future Parity Bonds shall provide for the deposit into the Debt Service Reserve Account, taking into account money and investments on deposit therein and any reserve insurance, of (i) an amount equal to the Reserve Requirement for those Future Parity Bonds from the Future Parity Bond proceeds or other money legally available (ii) reserve insurance sufficient to satisfy the Reserve Requirement; or (iii) to the extent that the Reserve Requirement is not funded from Future Parity Bond proceeds, other legally available money or reserve insurance at the time of issuance of those Future Parity Bonds, within ten years from the date of issue of the Future Parity Bonds from Sewer ULID Assessments, if any, levied and first collected for the payment of the principal of and interest on those Future Parity Bonds and, to the extent that Sewer ULID Assessments are insufficient, then from Net Revenue in ten approximately equal annual payments (or such other shorter interval of payments as may be required by the ordinance authorizing such Future Parity Bonds); however, in the case of refunding bonds, the ordinance authorizing the issuance of such refunding Future Parity Bonds may provide that the money in the Debt Service Reserve Account for the bonds to be refunded shall be retained in the Debt Service Reserve Account as a reserve for the refunding bonds, or that the money in any other reserve account or fund for the bonds being refunded may be transferred to the Debt Service Reserve Account, but if such amount does not equal the Reserve Requirement, the Reserve Requirement for the refunding bonds shall be accumulated in the manner and within the same time as set forth herein for Future Parity Bonds.

(e) There shall be on file with the Clerk a certificate from (i) a licensed professional engineer experienced in the design, construction and operation of municipal utilities, (ii) an independent certified public accountant or (iii) the Treasurer, which certificate may not be dated more than one month before the date such Future Parity Bonds are issued, stating that Net Revenue for any 12 consecutive calendar months out of the immediately preceding 24 calendar months shall be equal to 120% of the Average Annual Debt Service on all outstanding bonds payable from the Debt Service Account (after giving effect to the issuance of such Future Parity Bonds). If Future Parity Bonds proposed to be so issued are for the sole purpose of refunding outstanding bonds payable from the Debt Service Account, such certification of coverage shall not be required if the amount required for the payment of the principal and interest in each year for the refunding bonds is not increased over the amount for that same year required for the bonds or the portion of the bond issue to be refunded thereby and if the maturities of such refunding bonds are not extended beyond the maturities of the bonds to be refunded thereby. For so long as the Purchaser is the registered owner of all outstanding Parity Bonds, and provided the Purchaser will be the registered owner of the Future Parity Bonds to be issued, the provisions of this subsection (e) shall not apply upon the consent of the Registered Owner.

Nothing contained herein shall prevent the City from issuing revenue bonds or incurring other obligations for borrowed money that are a charge upon Net Revenue subordinate to the payments required to be made therefrom into the Debt Service Account for the payment of Parity Bonds or from pledging the payment of utility local improvement district assessments into a bond redemption fund created for the payment of the principal of and interest on those subordinate lien obligations as long as such utility local improvement district assessments are levied for improvements constructed from the proceeds of those subordinate lien obligations.

For so long as the Purchaser is the Registered Owner, the City will not issue Future Parity Bonds or subordinate lien obligations payable from Net Revenue or secure repayment obligations for any loan with a lien and charge on Net Revenue or System property without receiving the prior written consent of the Purchaser.

Section 15. Refunding or Defeasance of the Bond

The City may issue refunding bonds pursuant to State law or use money available from any other lawful source to carry out a refunding or defeasance plan, which may include (a) paying when due the principal of and interest on the Bond (the "defeased Bond"); (b) redeeming the defeased Bond prior to its maturity; and (c) paying the costs of the refunding or defeasance. If the City sets aside in a special trust fund or escrow account irrevocably pledged to that redemption or defeasance (the "trust account"), money and/or noncallable "government obligations" (as defined by chapter 39.53 RCW) maturing at a time or times and bearing interest in amounts sufficient to redeem, refund or defease the defeased Bond in accordance with its terms, then all right and interest of the Registered Owner of the defeased Bond in the covenants of this Ordinance and in the funds and accounts obligated to the payment of the defeased Bond shall cease and become void. Thereafter, the Registered Owner of the defeased Bond shall have the right to receive payment of the principal of and interest on the defeased Bond solely from the trust account and the defeased Bond shall be deemed no longer outstanding. In that event, the City may apply money remaining in any fund or account (other than the trust account) established for the payment or redemption of the defeased Bond to any lawful purpose. NOTWITHSTANDING THE ABOVE, FOR AS LONG AS THE PURCHASER IS THE REGISTERED OWNER, THE CITY AGREES NOT TO DEFEASE THE BOND.

Section 16. Amendments to Ordinance

(a) The Council may adopt an ordinance supplemental hereto, which ordinance thereafter shall become a part of this Ordinance, for any one or more of all of the following purposes: (i) to add to or delete from the covenants and agreements of the City in this Ordinance, provided such additions or deletions shall not adversely affect, in any material respect, the interests of any registered owner of Parity Bonds; or (ii) to cure, correct or supplement any ambiguous or defective provision contained in this Ordinance, provided such supplemental ordinance shall not adversely affect, in any material respect, the interests of any registered owner of Parity Bonds. Any such supplemental ordinance may be adopted without the consent of any registered owner of any then-outstanding Parity Bonds, notwithstanding any of the provisions the following paragraph; provided, for so long as the Purchaser is the Registered Owner, the City may not adopt any supplemental ordinance pursuant to this subsection (a) without the prior written consent of the Registered Owner.

(b) With the consent of the Registered Owner as to form and substance, the Council may adopt an ordinance supplemental hereto for the purpose of adding any provisions to, or changing in any manner, or eliminating any of the provisions of this Ordinance or of any supplemental ordinance; provided, however, that no such supplemental ordinance shall extend the fixed maturity of the Bond, or reduce the rate of interest thereon, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the Registered Owner.

(c) Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations of the City under this Ordinance and the Registered Owner hereunder shall thereafter be determined, exercised and enforced thereunder, subject in all respects to such modification and amendments, and all terms and conditions of any such supplemental ordinance shall be deemed to be part of the terms and conditions of this Ordinance for any and all purposes.

(d) Any Bond executed and delivered after the execution of any supplemental ordinance adopted pursuant to the provisions of this section may have a notation as to any matter provided for in such supplemental ordinance, and if such supplemental ordinance shall so provide, any new Bond so modified as to conform in the opinion of the Council to any modification of this Ordinance contained in any such supplemental ordinance, may be prepared and delivered without cost to the Registered Owner, upon surrender for cancellation of the Bond in an equal aggregate principal amount.

Section 17. Severability; Ratification

If any provision of this Ordinance is declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provisions of this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Bond. All actions heretofore taken by the City consistent with the provisions of this Ordinance are ratified, confirmed and approved.

Section 18. Effective Date of Ordinance

This Ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law. The Clerk is directed to cause this Ordinance, or a summary hereof, to be published in the official newspaper of the City.

PASSED by the City Council and APPROVED by the Mayor of the City of Selah, Washington, on April 11, 2023, at a regular open public meeting thereof.

CITY OF SELAH, WASHINGTON

Sherry Raymond
Mayor

ATTEST:

[Signature]
Clerk-Treasurer
(SEAL)

ORDINANCE NO. 2192

CERTIFICATE

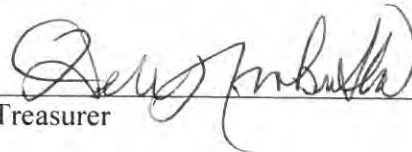
I, the undersigned, the Clerk-Treasurer of the City of Selah, Washington (the "City"), hereby certify as follows:

1. The foregoing Ordinance No. 21612 (the "Ordinance") is a full, true and correct copy of the Ordinance duly passed at a regular meeting of the City Council of the City (the "Council") held on April 11, 2023 (the "Meeting"), as the Ordinance appears on the minute book of the City.
2. The Ordinance will be in full force and effect five days after the publication of its summary in the City's official newspaper.
3. The Meeting was duly convened, held and included an opportunity for public comment, in all respects in accordance with law; a quorum was present throughout the Meeting; and a sufficient number of members of the Council so present voted in the proper manner for the passage of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand on April 11, 2023.

CITY OF SELAH, WASHINGTON

Clerk-Treasurer



(SEAL)

From: [Lee Marchisio](#)
To: [Wallace, Rocky](#); [Novobielski, Dale](#); [Marti Canatsey \(marlene.canatsey@wa.usda.gov\)](#); [Patti Vasquez](#); [Darwin Parker](#); [Sandy Thomason](#); [Jake Hambly](#); [Maik Aagaard](#); [Lea Howe](#); [Alma Basic](#); [Karen Meredith](#); [Chris Graving](#); [Ben Werthan](#); [Anna Armitage](#); [Angela Ringer](#); [Stephen Hazzard](#)
Cc: [Maggie Pennie](#)
Subject: City of Selah - Sewer Revenue Bond (USDA), 2023 - Bond Ordinance
Date: Tuesday, April 4, 2023 2:56:27 PM
Attachments: [SelahCity SewerRev BondOrdinance \[USDA\]\(74397172.4\).docx](#)
[SelahCity OrdChanges.pdf](#)

Hi everyone,

Attached is the final draft Bond Ordinance for the City's upcoming Sewer Revenue Bond, 2023 ("Bond"). Also attached are PDF change sheet showing the updates to the draft ordinance that was previously approved by USDA and the Office of General Counsel. We understand that Rocky has requested the Bond Ordinance to be on the City Council's agenda for next Tuesday, April 11.

The Bond will be issued to the United States of America, acting through the United States Department of Agriculture. Proceeds of the Bond will be used to pay the City's Sewer Revenue Bond Anticipation Note, 2022 ("Note"), which was issued to Banner Bank.

We will be working with Marti at USDA and Patti at Banner Bank to schedule closing of the Bond and the payment of the Note.

And, we look forward to working with all of you to complete this financing.

Thank you,

Lee

Lee Marchisio

(he/him)

Principal

Tel: 206.447.6264 • *Cell:* 206.790.7287 • *Fax:* 206.447.9700

lee.marchisio@foster.com

Foster Garvey PC

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Seattle, WA 98101

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SELAH CITY COUNCIL
Study Session
Meeting Materials
Apr 11, 2023

4:00 pm: Janitor/Custodian Discussion
4:30 pm: Carlon Park Improvements
5:00 pm: Police Station Discussion

SELAH CITY COUNCIL

Study Session

Meeting Materials

4:00 pm: Janitor/Custodian Discussion



Office Cleaning Proposal

Prepared for:

Dan Christman Selah Police Department

Prepared by:

Sandra Ortega Sandy's Cleaning Service

Cover Letter

At Sandy's Cleaning Service, we are an office cleaning agency and understand the importance of a tidy workspace. That's why we do all the scrubbing, dusting, and polishing so you and your employees can focus on the tasks at hand with immaculate office surroundings.

Whether you need our cleaning company's services on-site during office hours or when everyone has left for the day, you can rest assured your workplace will receive the utmost attention to detail.

Sandy's Cleaning Service was founded on the principles of warm, friendly, efficient service. Our staff knows how to get the job done, and we strive to excel in our field. With our range of services — and some great testimonials for reference — we believe that your needs can be fully met. No office is too big or small for our skilled and experienced staff.

With this commercial cleaning proposal letter, we look forward to a partnership with Selah Police Department, and to keeping your office beautiful and spotless every day.

Sincerely,

Sandra Ortega

02 / 24 / 2023

Sandra Ortega

Sandy's Cleaning Service

About Us

Sandy's Cleaning Service's journey started with a humble beginning, when Sandra Ortega's youngest son was accepted into Central Washington University. She had a goal to provide for her family and serve her community. See, Sandra loved to clean — she found peace in creating a safe and warm environment, like an old-fashioned Martha Stewart.

To Sandra, cleaning was not an activity or a chore. Rather, it was a state of mind, an emotion, a way to be grounded. And she wanted to emulate that feeling toward everyone, so that others, too, could relish in that clean state of mind. To make this vision come to life, Sandra personally interviews our service partners to see if they identify with the same philosophy of cleaning.

The reason why Sandra chose to focus on commercial spaces is because we realized that offices, more than other spaces, need a clean, bright, and well-kept atmosphere to function. That said, we often work in residential areas as well.

With over a decade in the industry, we're always looking to move forward in our journey, so that we can share this mission of a clean space with everyone.

Meet The Team



Sandra Ortega
Company CEO

Sandra Ortega began her journey into this industry with little capital, but a huge vision. She wanted to provide affordable services to offices, residences, and commercial locations so that a well-kept atmosphere does not become an expensive task for anybody. She carry's this philosophy with them wherever they go. Sandra's current goal is to grow her business and mission statement "cleaning is a way to be grounded" from everyday life.



Ramiro Ortega
Account Manager

Ramiro Ortega has been in partnership with Sandra since high school. Along with being the Father of their two boys, Ramiro has been a huge assest to Sandy's Cleaning Service. Together they have made many of the company's executive decisions, and Ramiro has always been a beloved partner. At the present moment, Ramiro has taken a quality control role, always ensuring they are well informed of all of their client's needs — so that they can deliver on them spotlessly (pun intended).



Joel Ortega
Sanitary Technician

Joel Ortega began working with Sandy's Cleaning Service since it's infancy. Joel Ortega the youngest of the Ortega's has quickly become every client's favorite partner. Much like his parents; Sandra and Ramiro. Joel believes that a well-kept atmosphere is one of the essential things we need as human beings.

What to Expect With This Collaboration

Sandy's Cleaning Service will perform the following office cleaning services for Selah Police Department: dusting, cleaning, and polishing of all surfaces; vacuuming of carpets and/or cleaning of non-carpeted flooring; cleaning of all appliances, bathrooms, and food preparation areas; trash collection and removal.

All labor, supervision, materials, and equipment required to perform these tasks will be provided by Sandy's Cleaning Service, at the approval of Selah Police Department.

The terms of this contract shall begin April 1st, 2023, and continue until the termination of this agreement. Selah Police Department has sole discretion over ending this contract, as well as increasing or decreasing the scope of work, and will notify of any changes within 30 day's.

Frequency of Services

Selah Police Department will set the schedule upon which Sandy's Cleaning Service will provide commercial cleaning services:

DAY OF SERVICE	SERVICE HOURS BETWEEN:
Monday	Unless otherwise specified
Tuesday	From 5:00PM to 6:00AM
Wednesday	Unless otherwise specified
Thursday	Unless otherwise specified
Friday	From 5:00PM to 6:00AM
Saturday	Unless otherwise specified
Sunday	Unless otherwise specified

Cleaning services will be performed at the office of Selah Police Department: 617 South 1st street, *Selah, Washington, 98942*

Our Services

We will undertake the following tasks on your premises:

Service	Description
Commercial Space Cleaning	Tackling all floor, furniture, and window cleaning tasks. Dry cleaning curtains, cushions, and other textiles. Polishing tiles, flooring, and woodwork.
Janitorial Services	Sanitation of all workspaces, common areas, break rooms and restrooms using environmentally sound chemicals and the best-in-class equipment.

Bi-annual Services

Carpet cleaning: vacuuming, shampooing, shampoo extraction, and spot treatment. Hard floor surfaces: steam clean and scrub.

Seasonal Services
(Quarterly)

Dust and spot clean: all window blinds, vents, and diffusers. Wash moldings as needed. Clean and disinfect doors, doorknobs, and handrails.

Additional Services

If you wish to explore other office cleaning options, here are a few additional services we offer that you can take advantage of.

1. Deep Cleaning

Deep cleaning is one service we recommend every client get at a few times a year. If a well-kept space is important to you, then you should look below surface level to truly unearth all the grime and dust that settles, and bid it goodbye forever (until, of course, you're in need of a new deep cleaning service — roughly every three to four months is our recommendation).

2. Maintenance

When it comes to cleaning, maintenance is a big part of the mix. We often focus on surface level cleaning. Other, equally important things might be missed and need attention from time to time, such as A/C units that need upkeep, thoroughly dust and cleaning vents, or detailing certain machines so that they remain operating at full capacity. With this service, you ensure you maintain all the nitty-gritty of your office.

Supply List

We care about your employees' and our environment's health. Hence, we procure our own eco-friendly, high-quality, and odor-free cleaning products to ensure a sparkling finish with peace of mind you can enjoy.

Below is a tentative list of products and equipment Sandy's Cleaning Service will be using for commercial space cleaning. This list may be changed depending on the requirements and availability of the products, with prior written consent from Selah Police Department.

Product/Equipment	Purpose
Cleaning solution	Washing windows and other surfaces
Polishing solution	Regaining the shine of furniture, tiles, and other decors
Vacuum cleaner	Getting rid of dust from floors, furniture, and thorough carpet cleaning
Mopping solution	Cleaning non-carpeted floors
Plastic bags	Collecting trash for discarding, recycling, composting

Our Guarantee/Quality Assurance

Sandy's Cleaning Service is fully licensed, bonded, and insured to provide professional office cleaning services. Documentation is available upon request.

If Selah Police Department finds any of our cleaning jobs to be unsatisfactory, please contact Sandra Ortega within 24 hours, and your issues will be mitigated at no additional cost.

In the event that a dispute cannot be solved between Selah Police Department and Sandy's Cleaning Service, both parties agree to enter into arbitration in the State of Washington. Sandy's Cleaning Service agrees to observe all holidays of Selah Police Department and perform all services during the agreed upon days and times.

It is the policy of Sandy's Cleaning Service that our team of cleaners will not eat in your office, use any of your facilities, answer phones, or give access to outside visitors. Communication between our staff and Selah Police Department employees, if cleaning services are required during business hours, will be limited so as not to distract Selah Police Department's workers.

Sandy's Cleaning Service will provide a checklist with job duties that will be initialed when completed by our team.

Client References

Bill Harris, Bill Harris Used Cars April 2016-Current

608 S. 1st st., Selah, WA 98943

509-961-1588

Average monthly cost of service: \$372.55

Kimmie & Robert Tree, Residential May 2020-Current

555 Aeroview Rd. Yakima, WA. 98908

509-654-5102

Average monthly cost of service: \$602.00

Traci Udell, Residential March 2018-Current

220 Treneer Way Yakima, WA. 98908

509-480-8811

Average monthly cost of service: \$194.94

Kamaican Wheeler, Lone Warriors Oct. 2021-Current

229 Laterall A rd. Wapato, WA. 98952

509-901-5289

Average monthly cost of service: \$520.00

Pricing

The price quote herein will remain in effect for the length of this office cleaning contract, unless changes are agreed upon in writing by both parties. Cleaning services will be performed on a month-to-month basis, with payment due at the beginning of each month. All payments should be made payable by check or credit card.

Monthly Cleaning fee	Price	QTY	Subtotal
Basic & Seasonal Cleaning fee/week 2 people Modified & subject to change for carpet cleaning	\$456.00	4.3	\$1,960.80
Supplies used/week	\$6.75	4.3	\$29.03
Cleaning products Cleaning supply	\$0.00	1	\$0.00
Subtotal			\$1,989.83
Tax			8.30%
Total			\$2,154.98

Exceptions

1. Upon request of Sandy's Cleaning Service business license. Renewal is pending process, please allow 7-14 business days for process to be completed. See attached documents to verify pending status and registration for Selah.
2. A list for all chemicals and cleaning agents used during the performance of the contract will be provided. However, Safety Data Sheets will be provided prior to start date.

Terms and Conditions

1. Selah Police Department and Sandy's Cleaning Service are entering into an agreement for the term of 12 months.
2. If either party wishes to terminate the agreement, they must inform the other party at least 30 days in advance; failing to do so will result in a penalty.
3. For any disputes between both parties, they may seek remedy under the laws of Washington State.
4. If Selah Police Department fails to pay on time (ergo, after 30 days since the invoice has been shared), they will be liable to pay a late fee, amounting to no more than 10% of the total invoice.
5. Sandy's Cleaning Service, may, at its own discretion, change the pricing of the services once the contract period ends. If Selah Police Department wishes to renew the contract, they must agree to renewed pricing terms.
6. Sandy's Cleaning Service is not liable for any damages or missing items from Selah Police Department's premises.
7. Proposal is valid for atleast 90 days from date of submission.

Agreement of Service

By signing below, Selah Police Department and Sandy's Cleaning Service agree to the payment details and all provisions set forth in this cleaning service proposal. The client has 30 days to cancel this agreement at no cost. If the client elects to cancel after April 15, 2023 all outstanding payments must be made upon termination.

Sandra Ortega

02 / 24 / 2023

Sandra Ortega Sandy's Cleaning Service

Signature_____

Date:

Dan Christman Selah Police Department

Signature Certificate

Reference number: HNBM4-DGP4V-EFFWM-NSQ7T

Signer

Timestamp

Signature

Sandra Ortega

Email: sandee.ortega.msn@gmail.com

Sent:

20 Mar 2023 23:41:06 UTC

Signed:

20 Mar 2023 23:41:07 UTC

Sandra Ortega

IP address: 97.94.12.33

Location: Yakima, United States

Document completed by all parties on:

20 Mar 2023 23:41:07 UTC

Page 1 of 1



Signed with PandaDoc

PandaDoc is a document workflow and certified eSignature solution trusted by 40,000+ companies worldwide.



NOE MESS LLC.

60 Snowy Owl Lane
Yakima, WA 98908
509-594-1397

MadelineNoe19@gmail.com

SienaNoe@gmail.com

April 6, 2024

Attn: Contract Administrator
City of Selah
115 W. Naches Avenue
Selah, WA 98942

RE: Custodial Services

Dear Contract Administrator:

We learned that the City of Selah recently sought proposals for service providers to provide custodial services in City facilities. Respectfully, we submit the following proposal for your consideration:

Our company, Noe Mess, LLC, is prepared to provide custodial services to the City of Selah. The company's principals, Madeline Lemerande and Siena Noc, have the experience and knowledge to provide the necessary services, as both previously provided custodial services to Linfield University located in McMinnville, Oregon and Resolute Properties LLC located in Yakima. Further statements of qualification, principal resumes, and references can be provided upon request. Our employees will submit to background screening and checks as the City may deem appropriate and will provide proof of appropriate insurance that the City may require, if any.

Based on the projected scope of the custodial work that the City will require, our company can provide those services at the monthly rate of \$7500.00

Thank you for your time and consideration on this proposal.

Sincerely,



Madeline Lemerande
DBA Noe Mess LLC



Siena Noe

NOE MESS LLC
Madeline Lemerande
(509) 594-1397
madelineno19@gmail.com

RESUME

EXPERIENCE

Resolute Properties LLC- provide cleaning and janitorial services for remodeled houses/duplexes and buildings preparing to go on the market (August 2019-to Present)

Highland School District- (Multilingual Teacher Learner (October 2023 to present)

Green Acres Elementary School, Lebanon, OR - 6th Grade ELA and Science Teacher (August 2018 - August 2022)

Green Acres Elementary School, Lebanon, OR - 4th Grade Long Term Substitute Teacher (February 2018 - June 2018)

Duniway Middle School ELD, McMinnville, OR - Full Time Student Teacher (August 2017 - December 2017)

- Teach students in 6th - 8th grade ranging in English Language Proficiencies of Beginning to Early Intermediate

Legal Assistant, Yakima, WA (June - August 2017 & June - August 2018)

- Organize and maintain records and files for various municipalities (Selah, Union Gap, and Zillah)
- Communicate with victims, defendants, legal counsel, etc.

Columbus Elementary School 4th Grade, McMinnville, OR - Part Time Student Teacher (February 2017 - May 2017)

- Plan and execute lessons for a variety of subjects (Spanish, ELA, mathematics, etc.),

WISE Program at Duniway Middle School, McMinnville, OR - Mentor (February 2016 - May 2016)

- Work with and provide resources to "high risk" eighth grade students on family life, academics, behavioral issues, etc.

EDUCATION

Linfield College, McMinnville, OR - Bachelor of Arts Degree (August 2013 - December 2017)

- Major in Upper Elementary/Middle Level Education and minor in Spanish
- Study abroad for one semester (Fall 2015) in Costa Rica
- Dean's List in Fall 2014, Spring 2015, Fall 2015, and Spring 2016.

Qualifications: State of Oregon Teaching Licensure and ESOL Endorsement

SKILLS

- Detail oriented, hard working and dependable.
- Proficient in Spanish
- Proficient with various computer programs (Excel, Powerpoint, Google Applications, Microsoft Word, etc.)
- A quick and willing learner
- Works well with others
- Flexible and adaptable

Updated Custodial/Janitor Information

SELAH CITY COUNCIL

Study Session

Meeting Materials

5:00 pm: Police Station Discussion

Carlton Park Information

Wood Field/Tennis Court lights				
Musco via Sourcewell		\$541,651.62		
Musco via Sourcewell with show-light option		\$554,106.12	Legion would have to donate \$12,454.50	

Tennis Courts - G&O		Asphalt 3" HMA 6"Rock	Concrete 4" CSTC 4" Concrete	
North Courts		\$437,812.00	Contingency approx. \$65,700.00	Contingency approx. \$120,603.75
North Courts and South Courts		\$875,624.00	25% Contingency \$131,400.00	25% Contingency \$241,207.50

Tennis Courts - HLA		Asphalt 3" HMA 6"Rock	
North Courts		\$201,300.00	
Asm Tennis Court Finish		\$36,500.00	
Asm Replace Striping, Posts, Net		\$20,000.00	
	subtotal	\$257,800.00	
	contingency 15%	\$38,670.00	
	Subtotal w/ contingency	\$296,470.00	
	sales tax 8.3%	\$24,607.10	
	Subtotal w/ sales tax	\$321,077.10	
	Design Engineering 15%	\$48,162.00	
	Construction Engineering	\$20,000.00	
	Project Total	\$389,239.10	

Lights and Tennis Court Total		\$930,890.72	
County ARPA Funding		\$600,000.00	
Shortfall		\$330,890.72	

Police Station Information

Parcels to Review

Owner	Address	Square Foot	Use	Accessor Land Value	Accessor Improvement Value	Total
Garner	109 S 1St	10,300	old house	\$ 93,350	\$ 134,100	\$ 134,100
Total	109 E 2nd Ave	12,000	Old Church	\$ 93,000	\$ 316,000	\$ 409,000
Asking						\$ 543,100
						\$ 475,000
Hait	205 W Naches	7,000	parking lot	\$ 28,100	\$ 9,400	\$ 37,500
Total	203 W Naches	10,000	Building	\$ 84,200	\$ 805,000	\$ 889,200
Asking						\$ 926,700
						\$ 818,000 less unknown damage
Helms	108 W Orchard	7,040	House	\$ 60,600	\$ 212,000	\$ 272,600
Total	12 N 1 St. St	9,940	Dance Studio	\$ 126,000	\$ 292,700	\$ 418,700
Asking						\$ 691,300
						\$ 1,450,000

City of Selah



City of Selah





218 Staff Sgt Pendleton Way
Yakima - WA 98901
509.966.3800
almoncommercial.com

February 14, 2023

Mr. Jeff Hyatt
Hyatt Family Facilities
601 W Walnut
Yakima, WA 98902
Delivery by email to: jeff@hyattff.com

Re: Broker's Opinion of Value
203 – 205 W Naches Ave, Selah, WA

Dear Jeff,

Consistent with our discussions I have undertaken to perform this Broker's Opinion of Value relative to real property owned by Hyco Properties, LLC, located at 203 – 205 W Naches Ave, Selah, WA, more specifically being Yakima County Assessor's Parcel Numbers 181435-41408 & 41530. The property consists of approximately .64 acres of commercial zoned land (specifically being B-1) and includes a masonry block medical office-oriented improvement with a brick façade historically utilized as an assisted living facility consisting of approximately 9,470SF on the main level, plus a partially finished basement (of an unknown size to me), that was constructed in 1972, which combines to have a 2023 tax assessed value of \$926,700. The property last sold in June of 2017 for \$1,050,000.

I suggest the property generally benefits from a few factors, including: a) being very well located within the heart of the professional office and medical core area of Selah; b) being one of what is likely to be only a few commercial buildings of this nature that tend to be available within the Selah market place at any given time, so if it were to become available it would likely have very little competition; c) having a partly finished basement space that includes a commercial kitchen, which is typically treated as a value-add amenity to help separate the property from competing buildings (more so than commanding additional value by way of an increased purchase price), and; d) being a potentially affordable entry point in terms of price per square foot of improvement.

I suggest the property generally suffers from a few factors, including: a) being configured as a special use facility originally designed for assisted living, the continued use for which is unlikely given the likely need to bring it up to current code and to significantly remodel the building that most assisted living or similar users would necessarily minimally make, the impact for which is significant given today's high costs of construction and building materials; b) having dated finishes and materials utilized throughout much of the interior; c) having minimal dedicated parking with only approximately 23 stalls, which equates to 1 stall per 412SF of main floor area (below likely code requirements for most traditional, and; d) most likely attracting a local 'mom-and-pop' buyer or tenant who tends to be less sophisticated, more management intensive and less capable of procuring the capital or financing needed to purchase the property.

Before proceeding further, permit me to provide my required disclaimer: As you are aware, while I am a commercial real estate licensee and frequently undertake to form opinions of value with respect to my clients wishing to sell, purchase, lease, invest in or otherwise deal with such properties, I am not a licensed appraiser, and am required by law to inform you: This brokers' price opinion is not an appraisal as defined in chapter 18.140

RCW and has been prepared by a real estate licensee, licensed under chapter 18.85 RCW who is not state certified or state licensed as a real estate appraiser under chapter 18.140 RCW.

That said, to determine what I believe to be the current fair market value of the subject property, I've chosen to utilize both the Comparable Sales Approach and the Income Approach of valuation, described as follows:

Comparable Sales Approach

In researching sales of what I believe are comparable properties to help determine what I believe an estimate of the fair market value of the subject property might be, I've located numerous such sales and adjusted them subjectively for factors such as location, zoning, condition, amenities, size, age, date of sale and other variables, such that the sales price might have differed, if at all, had they involved the subject property at the time of sale. From this method, I've derived a value of approximately \$87/SF attributable to the main level of the improvement, or approximately \$823,890 by the Comparable Sales Approach, less the costs of known or discovered deferred maintenance, if any.

Income Approach

In an effort to extrapolate what the property might be valued at to a potential investor, I've estimated what it would yield to the owner by way of a net rental income stream after property taxes, insurance, utilities and maintenance in today's market given its location, condition, amenities, size, age and other variables. From my knowledge of comparable lease space, I believe the main level of the improvement can be leased in its current 'as-is' condition for approximately \$8/SF/year on a 'triple-net' (or 'NNN') basis, which would therefore provide for approximately \$75,760 of gross scheduled annual income if fully leased at that amount.

By NNN, I mean the tenant should be expected to pay its proportionate share of property taxes, property insurance, maintenance, landscaping, snow removal and utilities, while the landlord should be expected to pay for structural repairs, roof replacement, HVAC replacement and parking lot replacement.

Subtracting 7% of the gross scheduled annual income for what I feel is an appropriate vacancy and credit loss factor for a property of this nature, plus 2% for capital replacement reserves for a property of this age and condition, and then capitalizing the resulting net operating income stream at 8.5% which is a figure I believe indicative of what an investor might pay for such a property, provides for a value of approximately \$812,325 by the Income Approach, less the costs of known or discovered deferred maintenance, if any.

Combining the Comparable Sales Approach and Income Approach provides an average value of \$818,108. It is therefore my opinion that the current fair market value of this property is approximately (rounded down):

\$818,000, less the costs of known or discovered deferred maintenance, if any

As you are aware, although I have expressed my opinion of what I believe the current fair market value of the property to be, this does not necessarily mean the property should be purchased for my estimated value, nor that any offers will or might be received at or near said value if it were to be placed on the market. Thanks for the opportunity to familiarize myself with the property and to be of some service.

Sincerely,



Bill Almon, Jr., CCIM



Principals
Dennis W. Dean, AIA
Brian J. Andringa, AIA

FEE PROPOSAL

March 13, 2023

Mr. Joe Henne, City Administrator
City of Selah
115 West Naches Avenue
Selah, Washington 98942

Re: Selah Police Station Feasibility Study

Dear Joe,

In review of the Old Church Building Site on South 1st Street and the vacant Nursing Home Building Site on West Naches Avenue our cursory evaluation and initial recommendation focused on the following areas:

1. Building Area including number of floors
2. Property size
3. Function
4. Construction costs

The square footage of the 2021 plan for the new Selah Law & Justice Center appears to be approximately 16,400 square feet. If we eliminate the Municipal Court program the revised program appears to be approximately 13,600 square feet. This includes approximately 3,100 square feet programmed for Training, Fitness, Lockers, and Breakroom. These square footages are the basis for our area analysis and this study utilizes the square footage without the Municipal Court.

The city of Selah Municipal Code requires 1 parking space per 200 square feet of gross floor area for a Police Station. 68 parking stalls are required to meet this code for the 13,600 square foot program.

Property #1 - Old Church Building Site - 109 S 1st St - Parcel # 181436-33033

Building Area: The existing building includes approximately 9,640 gross square feet over three levels with the second floor including a balcony within the original auditorium. The footprint is approximately 3,720 square feet. If the opening to the auditorium from the second floor is filled in (approximately 1,500 square feet), then the building includes approximately 11,160 gross square feet.

In review of the program spaces the Patrol (3,586 gross square feet) could be located in the basement with 134 gross square feet remaining. The main level would consist of Admin, Investigation, Evidence, and Records for a total gross square feet of 5,142. This exceeds the footprint and will require an addition of approximately 1,400 gross square feet. The upper level would house the training, breakroom, fitness, and supporting spaces for a total of 3,200 gross square feet leaving approximately 500 gross square feet available. Obviously, some

spaces could be shifted from the first floor to the second floor to reduce the additional space required.

To meet accessibility and functional requirements, an elevator and new stair will need to be added to the building at approximately 500 square feet on each floor. This brings the total square footage of additions to the building to approximately 2,900 square feet. These additions bring the total square footage of the project to 14,060.

Property Size: Including both parcels discussed onsite (West Parcel 181436-33033 & East Parcel 181436-33406) the overall size of the property is 24,829 square feet. Conceptually, it appears that there may be adequate space for 24 parking spaces on the east parcel. With the building addition and space for a fenced-in sally port and secured squad car parking the remaining open space of the building (west) parcel will be fully utilized. This site does not meet the Selah Municipal Code parking requirements.

The site does not meet ADA accessibility standards due to the main level being over four feet above finished grade.

Function: This building and site configuration significantly impacts staff efficiencies because staff would have to be split up over three separate levels in the building. The overall flow of staff is severely compromised with this arrangement. The limited space around three sides of the building limits the ability to create two separate entries; one for staff and one for the public.

Construction costs: The cost of renovating a building that is in such disrepair will add a significant premium to the project. The shell will all have to be renovated to make it weathertight and the structure will have to be upgraded to meet current structural and seismic code requirements. The cost of the addition with an elevator will be substantial. There are also concerns regarding the quantity of hazardous building materials within the building due to the age of the original construction. A hazardous building material inspection conducted by an environmental consulting agency is recommended for this facility.

Property #2 - Vacant Nursing Home - 203 W Naches Ave – Parcel # 181435-41530 & 181435-41408

Building Area: The main level of the existing building as estimated from google earth is approximately 10,670 gross square feet. We don't have any information on the size of the basements.

In review of the program spaces the Admin (578 NSF), Investigation (1,473 NSF), Evidence (1,472 NSF), Records (286 NSF), Patrol (2,656 NSF), and a portion of the common area (1,594 NSF) added together require a total net square feet (NSF) of 8,059. Adding a 30% efficiency factor for walls and circulation adds 2,418 square feet for a total required area of 10,478 gross square feet.

This configuration fits within the current estimated footprint with some space remaining for inefficiencies such as existing utilities, bearing walls, or other immovable monuments in the structure. The basement would be utilized for the training, breakroom, fitness, and supporting spaces for a total of 3,200 gross square feet. Locating these functions in the basement may not be desirable due to the lack of natural light or sufficient emergency exits

for the occupant load. These elements will have to be investigated as a part of the feasibility study. Obviously, some spaces could be shifted between levels to create a more efficient layout, but this option presents one potential solution.

Depending on the functions located in the basement an elevator may be required. The need for an elevator is driven by a number of factors including, occupant load, occupiable square footage, and public access.

Property Size: Including both parcels (West Parcel 181435-41408 & East Parcel 181435-41530) discussed on site, the overall property size is 28,008 square feet. There are currently 12 parking spaces shown on the west side of the building including one ADA space. This lot includes three parallel parking spaces that create a very tight parking lot which most likely does not meet code Selah Municipal Code parking circulation standards. The east side currently includes 13 parking spaces including one ADA space. In total, 25 parking stalls exist on the existing sites.

Similar to Property #1 the main building entry is not at grade and has no public ADA access. Due to the site grading it would be best if the public entry was from the east side of the building with a ramp extending to the main entry on the south side of the building. The location of this entry point depends heavily on how the building is laid out internally. It may also be feasible to create a new public entry on the east side to avoid having to provide a long ramp.

For the same reason, the east side a better location for the secured squad car parking, sally port, and entry into the evidence garage. The evidence garage may also be accessible off the alley. In any case, the Property is tight and has inadequate parking to support this building function. The available parking does not meet the needed parking count for the whole hole facility and does not provide sufficient parking for staff.

Function: This building works better than Property #1 functionally since the main level can house most of the primary functions of the Police Station. However, the function could be severely impacted if the building has internal bearing walls. Buildings with gable/hip roofs like the subject project typically have trusses that span from outside wall to outside wall but the configuration at this facility is unknown at this time and will need to be verified.

Construction costs: The cost of remodeling this building will be less than Property #1. If there are few interior bearing walls, the remodel of the building structure could be fairly straightforward. There are also concerns regarding the quantity of hazardous materials within the building construction due to the age of the original construction. A hazardous building material inspection conducted by an environmental consulting agency is recommended for this facility.

Conclusion

Neither site is optimal for a Police Station due to their relatively small sites. These constrained sites could create functional issues as the community and Police force grows in the future.

Due to the cost escalation that has occurred in the construction industry over the last 2+ years, the cost of remodeling a building has become more attractive. However, both buildings/sites under consideration have limited site area available for the incorporation of a

sally port, secured squad car parking, secured exterior evidence storage, staff parking, and public parking.

If there are no other options to consider, based on our cursory evaluation KDA Architecture recommends proceeding with a Feasibility Study of Property #2, the Vacant Nursing Home building and site. This Feasibility Study will determine if the building is feasible as a Police Station and will provide a Rough Order of Magnitude cost estimate. The Feasibility Study will also include a more thorough building and site evaluation than presented in this document.

To complete the Feasibility Study, we propose a lump sum fee of \$14,420 plus reimbursable expenses. This service includes the following:

1. Programming (\$3,360) to understand the minimum square footage needed, determine the size of the existing building, and reconcile the required square footage to the existing building square footage. This will help determine if the split of the program between the main level and basement will work functionally.
2. Site evaluation (\$5,320) to determine zoning, utility locations, utility expandability, parking analysis, vehicle access/flow, pedestrian access/flow, and conceptual site layout.
3. Facility assessment (\$2,100) to evaluate the building components. We have not included fees for civil, structural, mechanical, or electrical engineering consultants for this effort. HLA will provide their fee under separate cover. If there are any critical structural issues, we will note further investigation is required. We are assuming that all mechanical and electrical construction components will have to be replaced.
4. Rough Order of Magnitude cost estimate (\$1,960). This will include construction cost and soft cost for a total project estimate.
5. Final documentation (\$1,680).

Our proposed schedule is to complete this study within two months depending on city staff availability for meetings.

We are excited to work with the City of Selah and hope that this Study will pave the way for a new location for the Police Station. Please contact me if this meets with your approval and we will issue a Letter of Agreement.

Sincerely,



Dennis W. Dean, AIA
Principal, Architect



Ryan C. Pharmed, AIA
Senior Associate, Architect

Copy: Terry Alapeteri, HLA

4/11/23 → HANDED TO COUNCIL MEMBERS BEFORE MEETING
BY BIN SCHULER WHO PRESENTED AT MEETING

POINTERS RE PUBLIC DEFENDER CONTRACT

Greetings all,

I'd like to point out several things in defense of Brumback and Ottem being retained as the public defender firm for Selah. Some of these include.:

- 1) There was an indication that approx. \$17,000 was paid out for conflict counsel last year. This coupled with our \$60,000 equals \$77,000. This is well below the \$108,000 being offered to Mr. Polage. It should be noted that he will have conflicts as well. The Office of Public Defense and the Bar have become considerably stricter in recent years, which has led to stricter standards in conflict areas. As such, the conflict costs associated with the new contract will have to be factored in as well. Obviously, these are TBD at this point.
- 2) With increase in pay for our firm, I would be able to concentrate more in Selah and there would be less of a need to take cases in other jurisdictions, thus cutting down on potential conflicts.
- 3) I noticed there was a comment in the notes to the council that there is discrepancy in what constitutes a conflict. The standards for defense counsel are very stringent today. Conflict issues are often taken for granted, which opens the Court up to liability and puts the attorney's license on the line. Put simply, when there are co-Defendants in a case, a conflict automatically arises. There has been some disagreement in this Court over that. I contacted the Bar ethics hotline and the OPD and both concurred that co-Defendants create an automatic conflict. Both were shocked that that is an issue. These are the 2 main governing bodies for public defense.
- 4) There is a clause referring to handling of appeals by the attorney. It is a huge no no for a trial attorney in a public defense case to handle his/her own appeal. Bigger jurisdictions farm these out, as all Courts should do. The number one appeal issue in every trial is Ineffective Assistance of Counsel. It is to be included as a matter of right for a Defendant. This creates an obvious conflict as the attorney is in a position to indicate he/she was ineffective. This subjects the Court and the attorney to liability.
- 5) In analyzing the public defender contract this firm initially signed., it indicates that if proper notice isn't given, the term automatically renews year to year. This would seem to mean that proper notice is to be given by November 1 of any given year or the term automatically renews for a year. Any notice given prior to that is premature.
- 6) There are 3 of us in the firm. Thus, each can take on 400 misdemeanor cases for a total of 1,200. A solo firm can only handle 400 tops.
- 7) We have 3-4 bilingual staff members (more if needed) that can provide interpreter services to Spanish speaking clients. We also have an intricate system that allows us to enter all data from cases and access if need be. This includes case notes, case numbers, etc.
- 8) Selah is the only Court I have practiced in that DOES NOT screen for qualifications for

public defender. We have been appointed several that could easily have afforded to hire counsel. The screening involves a 1 to 2 page application that is very easy to fill out. It also gives the Judge guidance on whether to appoint counsel. I believe this could alleviate numbers some as well. Selah is essentially paying for legal services for clients that can easily afford to hire counsel, thus increasing the costs.

I hope this helps in making your final decision We wanted to clarify a few points we saw as flawed in our opinion. There are more, but we pointed out the most relevant.

Thank you,

Bill Schuler
On behalf of Brumback and Ottem

DATE: APRIL 11-2023

[illegible]

COUNCIL ROLL CALL LIST: Meeting Date: 4-11-23

YES	ATTENDANCE	NO
✓	Councilmember Marquis	
✓	Councilmember Bell	
✓	Councilmember Costello	
✓	Councilmember Carlson	
✓	Councilmember Iverson	
✓	Councilmember Wickenhagen	
✓	Councilmember Peterson	

YES	AIS: <u>13-D</u>	NO
✓	Councilmember Marquis	
✓	Councilmember Bell	
✓	Councilmember Costello ①	
✓	Councilmember Carlson	
✓	Councilmember Iverson	
✓	Councilmember Wickenhagen ②	
✓	Councilmember Peterson	

PASS

YES	AIS: <u>CONSENT</u>	NO
✓	Councilmember Marquis	
✓	Councilmember Bell	
✓	Councilmember Costello	
✓	Councilmember Carlson ①	
✓	Councilmember Iverson ②	
✓	Councilmember Wickenhagen	
✓	Councilmember Peterson	

YES	AIS: <u>13-E</u> <u>13-F</u>	NO
✓	Councilmember Marquis	
✓	Councilmember Bell	
✓	Councilmember Costello	
	Councilmember Carlson	✓
✓	Councilmember Iverson	
✓	Councilmember Wickenhagen ①	
✓	Councilmember Peterson ②	

PASS

YES	AIS: <u>13-A</u>	NO
✓	Councilmember Marquis	
✓	Councilmember Bell	
✓	Councilmember Costello	
	Councilmember Carlson	✓
✓	Councilmember Iverson	
✓	Councilmember Wickenhagen ①	
✓	Councilmember Peterson ②	

YES	AIS: <u>13-G</u>	NO
✓	Councilmember Marquis	
✓	Councilmember Bell	
✓	Councilmember Costello	
✓	Councilmember Carlson ②	
✓	Councilmember Iverson	
✓	Councilmember Wickenhagen	
✓	Councilmember Peterson ①	

PASS

Amended

PASS

COUNCIL ROLL CALL LIST: Meeting Date: APRIL 11, 2023

PASS

YES	ATTENDANCE ORDINANCE 14-A	NO
✓	Councilmember Marquis	
✓	Councilmember Bell	
✓	Councilmember Costello ②	
✓	Councilmember Carlson ①	
✓	Councilmember Iverson	
✓	Councilmember Wickenhagen	
✓	Councilmember Peterson	

YES	AIS:	NO
	Councilmember Marquis	
	Councilmember Bell	
	Councilmember Costello	
	Councilmember Carlson	
	Councilmember Iverson	
	Councilmember Wickenhagen	
	Councilmember Peterson	

YES	AIS:	NO
	Councilmember Marquis	
	Councilmember Bell	
	Councilmember Costello	
	Councilmember Carlson	
	Councilmember Iverson	
	Councilmember Wickenhagen	
	Councilmember Peterson	

YES	AIS:	NO
	Councilmember Marquis	
	Councilmember Bell	
	Councilmember Costello	
	Councilmember Carlson	
	Councilmember Iverson	
	Councilmember Wickenhagen	
	Councilmember Peterson	

YES	AIS:	NO
	Councilmember Marquis	
	Councilmember Bell	
	Councilmember Costello	
	Councilmember Carlson	
	Councilmember Iverson	
	Councilmember Wickenhagen	
	Councilmember Peterson	

YES	AIS:	NO
	Councilmember Marquis	
	Councilmember Bell	
	Councilmember Costello	
	Councilmember Carlson	
	Councilmember Iverson	
	Councilmember Wickenhagen	
	Councilmember Peterson	