

Kelso City Council Agenda

Regular Meeting, 6:00 pm
October 1, 2013
City Hall, Council Chambers
203 South Pacific
Kelso, WA 98626



Special accommodations for the handicapped and hearing impaired are available by special arrangement through the City Clerk's Office at 360-423-0900

Invocation:

Pastor Jerry Dahlke, North Gate City Church

Roll Call to Council Members:

1. Approve Minutes:

1.1. September 17, 2013 – Regular Meeting

2. Proclamations:

2.1. Domestic Violence Awareness Month

3. Public Hearing:

3.1. Revenue Sources for Upcoming Year

4. Presentation:

4.1. Kelso High School Senior Community Project – Graffiti Cleanup

5. Consent Items:

5.1. Closeout – 2013 Overlay Program Project

5.2. Amendment – NPDES Agreement

5.3. Authorization to provide Alternate Employee Dental and Vision Benefits

6. Citizen Business:

7. Council Business:

7.1. Contract – Professional Services, West Main Realignment Project

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8. Action/Motion Items:

- 8.1. Ordinance, 1st Reading
 - 8.1.1. Amend Special Events Permit
- 8.2. Ordinance, 2nd Reading
 - 8.2.1. Amend Zoning Text Change Chapter 17.08.020

Other Items:

- City Manager Report
- Staff/Dept Head Reports
- Council Reports
- Other Business
- Executive Session

Pastor Russ Tevis, Central Christian Church, gave the invocation. Mayor David Futcher led the flag salute. The Regular Meeting of the Kelso City Council was called to order by Mayor David Futcher. Councilmembers in attendance were: Futcher, Lefebvre, Schimmel, Archer, Myers, Roberson, and McDaniel.

Minutes: Upon motion by Councilmember Myers, seconded by Councilmember Roberson, 'Approve the Minutes of the 9/03/13 Special Council Workshop and the 9/10/13 Regular Meeting,' motion carried, all voting yes.

PROCLAMATIONS:

Mayor Futcher read a proclamation declaring September 17th – 23rd, 2013 as “**Constitution Week**” in the City of Kelso.

Mayor Futcher read a proclamation declaring September as “**National Recovery Month**” in the City of Kelso.

PRESENTATION:

South Kelso Railroad Crossing Project: FCS Group Senior Project Manager Todd Chase gave a power point presentation about possible ways for the City to fund a \$2.5 million local match, assuming that Kelso gets a grant, for the South Kelso Railroad Crossing Project.

EXECUTIVE SESSION:

The Council convened into Executive Session at 6:18 p.m. to discuss potential litigation. The Executive Session is expected to last approximately 5 minutes. The attorney was present and no action was taken.

The Council reconvened into Regular Session at 6:23 p.m.

MOTION ITEM (moved up on agenda):

Ordinance No. (1st Reading): Amend Zoning Text Change Chapter 17.08.020: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember McDaniel, seconded by Councilmember Myers, 'Pass on 1st reading, 'AN ORDINANCE OF THE CITY OF KELSO AMENDING KELSO MUNICIPAL CODE CHAPTER 17.08.020 TO AMEND THE DEFINITION OF “CULTURAL INSTITUTION”.' City Attorney Janean Parker commented that the request for the text change definition was brought before the Planning Commission where a public hearing was held. The action at the Planning Commission meeting resulted in a 4 – 3 decision that the request be brought to the Council for approval.

Jerrold Arionus, 2618 Fir Street, Longview, spoke from the audience. He requested that the motion on this item be postponed until Mr. Leonard Pisarchuk, the petitioner, can be present.

Upon motion by Councilmember Myers, seconded by Councilmember Lefebvre, **‘Table the motion to approve the Amendment to the Zoning Text Change until the next Regular Council Meeting.’** Councilmembers Futcher, Lefebvre, Roberson, and Schimmel voted yes. Councilmembers McDaniel, Myers, and Archer voted no. Motion passed 4 to 3.

At 6:33 p.m. the Council recessed to allow time for people to vacate the council chambers. At 6:36 Council reconvened into Regular Session.

CONSENT AGENDA:

1. **Agreement:** EPA Grant, Terry’s Salvage site, 1124 North Pacific Avenue
2. **Auditing of Accounts:** \$ 1,329,451.87

Upon motion by Councilmember McDaniel, seconded by Councilmember Schimmel, ‘Approve the Consent Agenda and the Auditing of Accounts in the amount of \$1,329,451.87,’ motion carried, all voting yes.

CITIZEN BUSINESS:

Rick Von Rock, 400 North 7th Avenue, spoke against the amendment to the zoning text change.

Mike Julian, 120 E Canyon View Drive, Longview, President of the Kelso Downtown Revitalization Association, spoke against the amendment to the zoning text change.

COUNCIL BUSINESS:

Solid Waste Rate Adjustment: Public Works Director David Sypher provided a summary on two rate adjustment options for Council to consider. The adjustment is due to the County’s municipal solid waste rate increase which will begin on December 1, 2013. City Manager Steve Taylor pointed out that these options reflect only residential rates. He asked the Council for direction on which of the two options that they would like to have brought back for consideration. Lengthy discussion followed. Upon motion by Councilmember McDaniel, seconded by Councilmember Myers, ‘Direct staff to bring back an ordinance that would establish solid waste reserve funds described in Option 2.’ Councilmembers: Futcher, McDaniel, Myers, Roberson, Lefebvre, and Archer voted yes. Councilmember Schimmel voted no. Motion passed 6 to 1.

MOTION ITEMS:

Ordinance No. 13-3807 – 2013 Budget Revision #2: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember McDaniel, seconded by Councilmember Roberson, ‘Adopt Ordinance No. 13-3807, ‘AN ORDINANCE OF THE CITY OF KELSO AMENDING THE 2013 BUDGET TO REFLECT REVENUES AND APPROPRIATE FUNDS TO COVER EXPENDITURES OVER AND ABOVE THOSE ANTICIPATED AT THE TIME SAID BUDGET WAS ADOPTED.’ Motion passed, all voting yes.

Ordinance No. 13-3808 – Repeal Library Charges Policy: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember Schimmel, seconded by Councilmember Myers, ‘Adopt Ordinance No. 13-3808, ‘AN ORDINANCE OF THE CITY OF KELSO, WA REPEALING ORDINANCE 01-3467 PERTAINING TO THE LIBRARY CHARGES POLICY.’ Motion passed, all voting yes.

Ordinance (2nd Reading) – Special Events Permits Timeline Chapter 12.24: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember Lefebvre, seconded by Councilmember Roberson, ‘Pass on 2nd reading, ‘AN ORDINANCE OF THE CITY OF KELSO REPEALING ORDINANCE 3573 CODIFIED AT KMC 12.24 PARADES AND ADOPTING A NEW KMC 12.24 SPECIAL EVENTS TO REPLACE THE REPEALED CHAPTER.’ Councilmember Myers commented on certain definitions. Lengthy discussion followed. Councilmember McDaniel voted yes, Councilmembers Fatcher, Myers, Archer, Lefebvre, Roberson, and Schimmel voted no. Motion failed, 1 to 6.

Resolution No. 13-1097 – Interlocal Agreement with AWC Employee Benefit Trust: The Deputy Clerk read the proposed resolution by title only. Upon motion by Councilmember Schimmel, seconded by Councilmember Lefebvre, ‘Pass Resolution No. 13-1097, ‘A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KELSO, WASHINGTON ENTERING INTO AN AGREEMENT WITH THE ASSOCIATION OF WASHINGTON CITIES EMPLOYEE BENEFIT TRUST FOR THE PURPOSE OF PROVIDING HEALTH AND WELFARE BENEFITS TO CITY EMPLOYEES AND THEIR BENEFICIARIES.’ Motion passed, all voting yes.

Resolution No. 13-1098 – Emergency Repair Work at Water Treatment Plant: The Deputy Clerk read the proposed resolution by title only. Upon motion by Councilmember Roberson, seconded by Councilmember Lefebvre, ‘Pass Resolution No. 13-1098, ‘A RESOLUTION OF THE CITY OF KELSO FINDING THE REPLACEMENT OF A WATER TREATMENT DISTRIBUTION MOTOR TO BE A SPECIFIC EMERGENCY AND APPROVE CONTRACT FOR EMERGENCY REPAIR WORK WITHOUT FORMAL BIDDING.’ Motion carried, all voting yes.

MANAGER’S REPORT:

Steve Taylor: 1) Provided a brief update regarding the progress of the Engineering Department's actions on making the City applicable for state and federal funding for the South Kelso Railroad Crossing Project. 2) He commented that there is an elected officials briefing for the State Route 432/433 Project scheduled Wednesday, September 18th. 3) He reminded the Council of the Chamber of Commerce 'State of the City' luncheon scheduled on Oct. 3rd, at 11:45 a.m., at the Cowlitz County Expo Center. 4) He announced that there is a vacancy on the Planning Commission Board. People who are interested can turn in an application to the Community Development Department.

EXECUTIVE SESSION:

The Council convened into Executive Session at 7:42 p.m. to discuss a property acquisition, potential litigation, and a collective bargaining agreement. The Executive Session is expected to last approximately 15 minutes. The attorney was present and no action was taken.

The Council reconvened into Regular Session at 8:00 p.m.

COUNCIL REPORTS:

Todd McDaniel: 1) Commented about receiving an email regarding the limit of chickens allowed in the city limits. Mr. Taylor commented that staff will provide that information to him.

Gary Archer: 1) Commented about the Lions Club donating a flag for Tam O' Shanter Park.

Kim Lefebvre: No report.

Dan Myers: 1) Commented that the Lower Columbia Community Action Plan and the Washington State Office of Insurance Commissioners are holding an informational forum regarding Medicare on September 19th, 2 p.m. to 4 p.m. in the CAP building.

Rick Roberson: No report.

Gary Schimmel: 1) Provided an update report on the last 911 Council Meeting. 2) He commented that he will not be attending the next council meeting.

David Futcher: No report.

There being no further business, Mayor Futcher adjourned the meeting at 8:04 p.m.

MAYOR

DEPUTY CLERK

PROCLAMATION

Domestic Violence Awareness Month October 2013

WHEREAS, domestic violence is a serious crime that affects people of all races, ages, income levels and sexes; and

WHEREAS, the crime of domestic violence violates an individual's privacy, dignity, security, and humanity, due to the systematic use of physical, emotional, sexual, psychological, and economic control or abuse; and

WHEREAS, the impact of domestic violence is wide ranging, directly affecting adults and children and society as a whole; and

WHEREAS, children who grow up in violent homes are abused and neglected at a rate 1500% higher than the national average; and

WHEREAS, domestic violence costs the nation between \$5 billion and \$10 billion annually in medical expenses, police and court costs, shelters and foster care, sick leave absenteeism, and non-productivity; and

WHEREAS, only a coordinated community effort will put a stop to this heinous crime;

WHEREAS, during Domestic Violence Awareness Month, we renew our commitment to prevent and punish the perpetrators of these tragic crimes, and bring hope and healing to those who have been impacted by them; and

NOW, THEREFORE, I, David Futcher, Mayor of the City of Kelso, do hereby proclaim the month of October 2013, as **Domestic Violence Awareness Month** in the City of Kelso, and ask all citizens to actively participate in the scheduled activities and programs sponsored by the Emergency Support Shelter to work toward the elimination of personal and institutional violence against women and urge all citizens to shed the light on domestic violence by reporting their concerns to the proper authorities.

In witness whereof, I have hereunto set my hand and caused the seal of the City of Kelso to be affixed this 1st day of October, 2013

David Futcher, Mayor

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE:

Closeout of
2013 Kelso Citywide Overlay Project No. 581301
2013 CHAP Street Overlay Project No. 581202

Agenda Item: _____

Dept. of Origin: Comm. Dev. - Engineering

For Agenda of: _____

PRESENTED BY:

Michael Kardas, P.E.
Community Development Director / City Engineer

Cost of Item: \$ 201,516.21

City Manager: Steve Taylor

AGENDA ITEM ATTACHEMENTS:

Final Payment Summary
Reconciliation Change Order (CO #1)

SUMMARY STATEMENT:

Council awarded the contract for the 2013 Kelso Citywide Overlay / CHAP Street Project to Brix Paving Northwest, Inc. of Tualatin, OR during the May 21, 2013 council meeting in the amount of \$ 201,516.21. Work started on June 20, 2013 and the project was completed on June 28, 2013.

This contract provides for roadway improvement and repair on various streets in the City of Kelso and City Hardship Assistance Program (CHAP) funded roadways, Kinnear Street and Clearview Street. The major work elements being 2,425 SY of Pavement Repair Excavation, 825 CY of Unsuitable Foundation Excavation and 555 Tons of HMA. This project budget was a combination of funds from the Cities general fund as well as a CHAP grant for the CHAP approved streets.

FINANCIAL SUMMARY:

Original Contract Amount:	\$	201,516.21
Approved Change Orders:	\$	
Over/Under Runs	\$	(18,962.60)
Retainage Amount:	\$	9,127.68
Final Contract Amount:	\$	182,553.61
Change in Contract Amount:	\$	(18,962.60)

RECOMMENDED ACTION:

Staff recommends approving the reconciliation change order and accepting this project as complete.

2013 Citywide Overlay
 Project #581301 / 581302
 PAY ESTIMATE NO. 1 JUNE 28, 2013

		Brix Paving, Co.				This Estimate			Previous Estimate			Total to Date		
Item	Schedule A		Unit	Price	Amount		Pay		Pay		Pay		Pay	
No.	Description	Quan				Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	
A-1	Mobilization	1	L.S.	\$ 12,987.62	\$ 12,987.62	L.S.	\$ -	1	L.S.	\$ 12,987.62	1	L.S.	\$ 12,987.62	
A-2	Other Traffic Control Labor	1	L.S.	\$ 1,408.27	\$ 1,408.27	L.S.	\$ -	1	L.S.	\$ 1,408.27	1	L.S.	\$ 1,408.27	
A-3	Flaggers and Spotters	200	HR	\$ 54.98	\$ 10,996.00	HR	\$ -	95.65	HR	\$ 5,258.84	95.65	HR	\$ 5,258.84	
A-4	Adjust Valve Box & Cover	3	EA	\$ 76.28	\$ 228.84	EA	\$ -	0	EA	\$ -	0	EA	\$ -	
A-5	Adjust Manhole Ring & Cover	2	EA	\$ 176.04	\$ 352.08	EA	\$ -	0	EA	\$ -	0	EA	\$ -	
A-6	Pavement Repair Excavation Incl.	3,500	S.Y.	\$ 15.26	\$ 53,410.00	S.Y.	\$ -	3726.09	S.Y.	\$ 56,860.13	3726.09	S.Y.	\$ 56,860.13	
A-7	Unsuitable Foundation Excavation Incl. Haul	600	C.Y.	\$ 11.74	\$ 7,044.00	C.Y.	\$ -	121	C.Y.	\$ 1,420.54	121	C.Y.	\$ 1,420.54	
A-8	Crushed Surfacing Top Course	350	TON	\$ 7.16	\$ 2,506.00	TON	\$ -	66.89	TON	\$ 478.93	66.89	TON	\$ 478.93	
A-9	Crushed Surfacing Base Course	1,000	TON	\$ 7.04	\$ 7,040.00	TON	\$ -	152.55	TON	\$ 1,073.95	152.55	TON	\$ 1,073.95	
A-10	HMA for Pavement Repair	825	TON	\$ 106.25	\$ 87,656.25	TON	\$ -	837.33	TON	\$ 88,966.31	837.33	TON	\$ 88,966.31	
A-11	Temporary Pavement Marking	100	L.F.	\$ 3.52	\$ 352.00	L.F.	\$ -	0	L.F.	\$ -	0	L.F.	\$ -	
A-12	Trim and Cleanup	1	L.S.	\$ 1,173.55	\$ 1,173.55	L.S.	\$ -	1	L.S.	\$ 1,173.55	1	L.S.	\$ 1,173.55	
Sub Total					\$ 185,154.61		\$ -		\$ 169,628.15		\$ 169,628.15		\$ 169,628.15	
Item	Schedule B													
No.	Description													
B-1	Mobilization	1	L.S.	\$ 822.39	\$ 822.39	L.S.	\$ -	1	L.S.	\$ 822.39	1	L.S.	\$ 822.39	
B-2	Other Traffic Control Labor	1	L.S.	\$ 140.30	\$ 140.30	L.S.	\$ -	1	L.S.	\$ 140.30	1	L.S.	\$ 140.30	
B-3	Flaggers & Spotters	40	HR	\$ 54.78	\$ 2,191.20	HR	\$ -	5.5	HR	\$ 301.29	5.5	HR	\$ 301.29	
B-4	Adjust Valve Box & Cover	1	EA	\$ 76.00	\$ 76.00	EA	\$ -	0	EA	\$ -	0	EA	\$ -	
B-5	Adjust Manhole Ring & Cover	1	EA	\$ 175.38	\$ 175.38	EA	\$ -	0	EA	\$ -	0	EA	\$ -	
B-6	Pavement Repair Excavation Incl. Haul	225	S.Y.	\$ 14.62	\$ 3,289.50	S.Y.	\$ -	258.4	S.Y.	\$ 3,777.81	258.4	S.Y.	\$ 3,777.81	
B-7	Unsuitable Foundation Excavation Incl. Haul	75	C.Y.	\$ 14.03	\$ 1,052.25	C.Y.	\$ -	0	C.Y.	\$ -	0	C.Y.	\$ -	
B-8	Crushed Surfacing Top Course	25	TON	\$ 29.23	\$ 730.75	TON	\$ -	0	TON	\$ -	0	TON	\$ -	
B-9	Crushed Surfacing Base Course	130	TON	\$ 4.68	\$ 608.40	TON	\$ -	0	TON	\$ -	0	TON	\$ -	
B-10	HMA For Pavement Repair	55	TON	\$ 121.65	\$ 6,690.75	TON	\$ -	60	TON	\$ 7,299.00	60	TON	\$ 7,299.00	
B-11	Trim and Clean up	1	L.S.	\$ 584.68	\$ 584.68	L.S.	\$ -	1	L.S.	\$ 584.68	1	L.S.	\$ 584.68	
Sub Total					\$16,361.60		\$ -		\$ 12,925.47		\$ 12,925.47		\$ 12,925.47	
CHANGE ORDERS														
	Reconciliation CO No. 1 - Quantities	1	ea	\$ (18,962.60)	-\$18,962.60									
Change Order Total					-\$18,962.60									
					New Subtotal	\$182,553.61								
					5% Retainage	\$9,127.68								
					TOTAL	\$182,553.61								
							Sub Total	\$0.00			\$182,553.62			\$182,553.62
							Retainage	\$0.00			\$9,127.68			\$9,127.68
							Due to Contractor this Estimate	\$0.00			\$173,425.93			\$173,425.93

City of Kelso

Brix Paving Northwest

PROJECT MANAGER _____ DATE _____

CONTRACTOR _____ DATE _____

DATE _____

CONTRACT CHANGE ORDER

Change Order No. **1 (reconciliation)**

City of Kelso, WA

Project Name: 2013 Citywide / CHAP Overlay

Project Number: 581301 / 581302

Owner: City of Kelso

Date: July 1, 2013

To: Brix Paving Northwest

(Contractor)

You are hereby requested to comply with the following changes from the contract plans and Specifications:

Description of Changes	Change in Contract Price
1. Item A-3 underrun of 104.35 hrs	\$ (5,737.16)
2. Item A-4 underrun of 3 (none needed)	\$ (228.84)
3. Item A-5 underrun of 2 (none needed)	\$ (352.08)
4. Item A-6 Overrun of 226.09 tons	\$ 3,450.13
5. Item A-7 underrun of 479 cubic yards	\$ (5,623.46)
6. Item A-8 underrun of 283.11 tons	\$ (2,027.07)
7. Item A-9 underrun of 847.45 tons	\$ (5,966.05)
8. Item A-10 Overrun of 12.33 tons	\$ 1,310.06
9. Item A-11 underrun (not needed)	\$ (352.00)
10. Item B-3 underrun of 34.5 hrs	\$ (1,889.91)
11. Item B-4 underrun of 1 (not needed)	\$ (76.00)
12. Item B-5 underrun of 1 (not needed)	\$ (175.38)
13. Item B-6 Overrun of 33.40 tons	\$ 488.31
14. Item B-7 underrun of 75 cubic yards (not needed)	\$ (1,052.25)
15. Item B-8 underrun of 25 tons (not needed)	\$ (730.75)
16. Item B-9 underrun of 130 tons (not needed)	\$ (608.40)
17. Item B-10 Overrun of 5 tons	\$ 608.25
TOTAL	\$ (18,962.60)
Net Change in Contract Price:	\$ (18,962.60)

Justification for Change:

The amount of unsuitable foundation repair was less than expected based on the observed surface conditions. The lower than expected foundation repair resulted in under runs in rock usage and flagger time as the contractor was able to complete the project faster than estimated. Asphalt tonnage was overrun because some pavement repair areas were extended based on the observations of the inspectors at the time of construction. Extensions were made to connect planned repair areas or pick up additional areas that needed repair but had not been included in the planning notes.

Original Contract Amount:	\$ 201,516.21
This Change Order:	\$ (18,962.60)
Previous Change Order(s):	\$ -
Total Contract Price:	\$ 182,553.61

Number of additional working days allowed: 0

This document will become a supplement to the contract and all provisions of the contract will apply hereto.

Accepted: _____
Contractor

Date: _____

Reviewed: _____
Inspector/Project Manager

Date: _____

Recommended: _____
City Engineer

Date: _____

Approved: _____
City Manager

Date: _____

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE: AMENDMENT TO
INTERLOCAL AGREEMENT - NPDES
REGULATORY CHALLENGE

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: _____ October 1, 2013 _____

Originator: _____

PRESENTED BY:

Steve Taylor

City Attorney: Janean Parker

City Manager: Steve Taylor

Agenda Item Attachments:

Original NPDES Interlocal Agreement
Amendment to NPDES Interlocal Agreement
Exhibit A – NPDES 2013-18 First Amendment

SUMMARY STATEMENT:

On September 20, 2012, the City entered into an interlocal agreement with multiple jurisdictions to challenge regulations implemented under Phase II National Pollutant Discharge Elimination System (NPDES). The original agreement amount was \$15,000. At a subsequent meeting, the City Manager requested guidance from the council based on a request for additional \$7,500 to continue pursuing the NPDES challenge. The council approved the additional requested funds and this amendment reflects the approved change to the original agreement.

RECOMMENDED ACTION:

Move to approve the amended Interlocal agreement pertaining to the challenge to NPDES Phase II regulations.

INTERLOCAL AGREEMENT BETWEEN THE CITIES OF AUBURN, BAINBRIDGE ISLAND, BELLEVUE, BURLINGTON, DES MOINES, EVERETT, ISSAQUAH, KENT, MOUNT VERNON, RENTON, SEATAC, SNOQUALMIE AND SUMNER AND COWLITZ COUNTY REGARDING LEGAL SERVICES

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into between the Cities of Auburn, Bainbridge Island, Bellevue, Burlington, Des Moines, Everett, Issaquah, Kent, Mount Vernon, Renton, SeaTac, Snoqualmie, Sumner and Cowlitz County and any other Phase II Permittees that might join this Coalition of Governmental Entities (collectively, "Coalition").

RECITALS

1. The members of the Coalition are public agencies as defined by Ch. 39.34 of the Revised Code of Washington, and may enter into interlocal agreements on the basis of mutual advantage to provide services and facilities in the manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

2. The Phase II National Pollutant Discharge Elimination System (NPDES) Permit is required under provisions of the Federal Clean Water Act and requires members of the Coalition in Washington to develop and maintain storm water programs. The Department of Ecology (DOE) has adopted standards (DOE Standards) purportedly under the NPDES Permit authority that may impose costly burdens on landowners, including members of the Coalition and may also cause costly legal challenges to members of the Coalition as a result of enforcing DOE Standards.

3. The potential impact of the DOE Standards on members of the Coalition and property owners is so significant and far-reaching, members of the Coalition are joining together to explore all legal and other avenues available to challenge the DOE Standards including but not limited to filing an appeal with the Pollution Control Hearings Board. The appeal deadline is August 31, 2012, the effective date of the DOE Standards. Members of the Coalition wish to retain outside counsel (Counsel) to represent the Coalition in said legal challenge(s) and wish to collectively pay Counsel as further set forth below.

4. NOW THEREFORE, in consideration of the terms and provisions contained herein, Coalition agrees as follows:

AGREEMENT

1. Purpose: It is the purpose of this Agreement to have the Coalition collectively pay for the legal services of Foster Pepper PLLC, or other selected legal counsel(Legal

Services) to represent the Coalition's interests in any legal challenges to the NPDES Phase II permits (Litigation).

2. Duration: This Agreement shall be effective August 13, 2012, irrespective of the date members of the Coalition execute this Agreement. Unless terminated by any party in accordance with Paragraph 5, Termination, the Agreement shall remain in full force and effect through conclusion of the Legal Services either through settlement of the dispute with the State of Washington, Pollution Control Hearings Board order, court order or other court disposition by the highest court authorized to hear an appeal of this matter, and/or other mutual resolution of the legal challenge or Legal Services as agreed to among members of the Coalition as provided in Paragraph 5.2 of this Agreement.

3. Administration: Coalition shall enter into a Joint Prosecution Agreement for the administration of the Legal Services and Litigation. Said Joint Prosecution Agreement shall include, but need not be limited to, a confidentiality agreement, establishing a structure for the administration and oversight of the Legal Services and Litigation that is efficient and effective given the number of Coalition who are parties to this Agreement, including oversight of the legal costs incurred pursuant to this Agreement and any other subjects necessary or appropriate to the administration of the Legal Services and prosecution of the Litigation. If this Agreement is effective prior to finalizing the Joint Prosecution Agreement, Coalition authorize the City of Bellevue to be Lead Agency to do all things necessary and/or appropriate to pursue the Litigation on behalf of Coalition including but not limited entering into an agreement for Legal Services as contemplated herein.

4. Payment:

4.1 The Legal Services' fees and costs shall be shared by members of the Coalition based upon the cost-sharing formula set forth in Exhibit "A" attached hereto and incorporated by this reference. This obligation shall continue through conclusion of the Legal Services as provided in Paragraph 2 above, unless a member of the Coalition terminates its participation in this Agreement as provided in Paragraph 5. Members of the Coalition hereby authorize said fees and costs up to \$255,000. The amount of this authorization may be increased administratively with the addition of new Coalition members up to a total of \$500,000. Provided, however, any increase in the cost of legal services that would require additional payments from any Coalition members in excess of the obligations set forth in Exhibit "A" shall require amendment of this Agreement unless an individual Coalition member expressly volunteers to increase its share without the necessity of amendment of this Interlocal Agreement.

4.2 The provider of Legal Services shall provide a monthly bill of its fees and costs to Bellevue. Bellevue shall timely pay the bill on behalf of Coalition. Within 15 days of approval of this Agreement, each member of the Coalition shall remit its proportionate share of the fees and costs to the City of Bellevue. Bellevue shall place these funds into an interest-bearing account, with any interest derived from these funds to be applied to the costs of the provider of Legal Services. At the time of drafting of this Agreement 12 governmental entities have committed to joining this appeal, and based upon the cost-

sharing formula set forth in Exhibit "A" hereto, each member of the Coalition is obligated to make payment of its proportionate share to the City of Bellevue. In the event Bellevue must take legal action to collect any amount due from a member of the Coalition, Bellevue shall be entitled to recover all costs for said action including reasonable attorney's fees.

4.3 In the event additional governmental entities join this Agreement, each new member of the Coalition shall be obligated to payment to the City of Bellevue based upon the cost-sharing formula set forth in Exhibit "A".

4.4 While it is recognized that members of the Coalition may not be able to sign this Agreement before August 31, 2012 it is agreed that the members will benefit from the Legal Services provided herein. Therefore, it is presumed that a member of the Coalition which enters into and signs this Agreement agrees to pay for Legal Services performed from and after August 13, 2012, regardless of the date of signing. Adjustments to amounts previously billed and received by Bellevue due to later joining members of the Coalition will be reconciled on a semi annual basis.

5. Termination:

5.1 Termination by Notice: Any participating member of the Coalition may terminate its participation in this Agreement by providing at least sixty (60) days prior written notice to all other participating members. The terminating member must pay the full share of the Legal Services Fees and Costs due through the date of termination three months from the date of Notice. Should it become necessary to amend this Agreement to increase the authorized total amount of fees and costs set forth in Paragraph 4.1, or a member's proportionate share pursuant to Paragraph 4.3, any member may terminate its participation in this Agreement by providing written notice to all other participating members within 15 days of receiving written notice of the request to amend fees and costs. This termination shall not affect the obligation of the terminating member to pay its full share of the currently authorized Legal Services Fees and Costs, and shall not entitle the terminating member to any refund of monies already paid to the Coalition. Except as provided in Paragraph 5.2, the termination of a member's participation in this Agreement shall not result in the termination of this Agreement with respect to other members of the Coalition.

5.2 Termination by Mutual Written Agreement. This Agreement may be terminated at any time by mutual written agreement of a majority of the then participating members of the Coalition. Members shall be obligated to pay for Legal Services incurred to the date of Notice to the provider of Legal Services that its services are no longer needed and any reasonable additional fees and costs necessary to conclude its Legal Services.

5.3 Distribution of Assets upon Termination. It is not anticipated that any assets will be acquired as a result of participating in this Agreement. If, however, any assets are acquired with joint funds of the Members of the Coalition, those assets will be equally divided among the members at the asset's fair market value upon termination. The value of the assets shall be determined by using commonly accepted methods of valuation. Additionally, any funds remaining in the interest-bearing account following conclusion of all

Legal Services shall be divided among the members of the Coalition in amounts proportionate to the members' contributions to the Agreement based upon the cost-sharing formula contained in Exhibit "A and any other voluntary contributions made by that member.

6. Miscellaneous:

6.1 Amendments. Except as expressly provided herein, this Agreement may only be amended by mutual written agreement of the members of the Coalition.

6.2 Severability. If any section of this Agreement is adjudicated to be invalid, such action shall not affect the validity of any section not so adjudicated.

6.3 Interpretation. The legal presumption that an ambiguous term of this Agreement should be interpreted against the party who prepared the Agreement shall not apply.

6.4 Ownership of Property. Any property owned and used by Bellevue in connection with this Agreement shall remain the property of Bellevue and any property owned and used by any other participating member of the Coalition shall remain the property of that member, unless otherwise specifically provided in this Agreement or its amendment.

6.5 Notice. All communications regarding this Agreement will be sent to the parties at the addresses listed on the signature page of the Agreement, unless notified to the contrary. Any written notice shall become effective upon personal service or three (3) business days after the date of mailing by registered or certified mail, and will be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or any other address if later specified in writing. Except for the requirement of Notice as provided in this Agreement, nothing herein shall be construed to prevent the members of the Coalition from communicating among themselves by email, fax or other electronic means. Any governmental agency not specifically named herein, that later joins in this Agreement, shall give to all members of the Coalition then participating under this Agreement written notice of the name and address of the person that can accept notices on behalf of such joining governmental agency.

6.6 Counterparts. This Agreement may be entered into with any number of counterparts which, taken collectively, will constitute one entire agreement.

6.7 Ratification and Confirmation. All acts taken prior to the effective date of this Agreement that are consistent with the intent and purpose of the same are hereby ratified and confirmed retroactive to August 13, 2012.

6.8 Dispute Resolution. Should any dispute arise among members of the Coalition or between one or more members related to the interpretation, application or administration of this Agreement, the disputing parties shall participate in a good faith mediation effort to resolve their differences prior to bringing any legal action.

6.9 Compliance with RCW 39.34.040. Members of the Coalition entering into this Agreement shall be responsible for ensuring that it is filed in accordance with RCW 39.34.040.

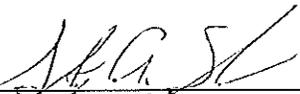
IN WITNESS, the parties below execute this Agreement, which shall become effective August _____, 2012.

<p>AUBURN:</p> <p>CITY OF AUBURN</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>BAINBRIDGE ISLAND:</p> <p>CITY OF BAINBRIDGE ISLAND</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>	<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>
<p>APPROVED AS TO FORM:</p> <p>_____</p>	<p>APPROVED AS TO FORM:</p> <p>_____</p>

<p>BELLEVUE:</p>	<p>BURLINGTON:</p>
-------------------------	---------------------------

KELSO:

CITY OF KELSO

By: 

Print Name: Steve Taylor

Its: _____

Date: 9/20/12

NOTICES TO BE SENT TO:

Janean Parker

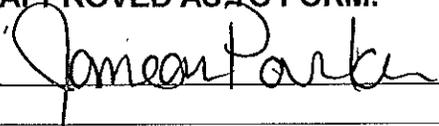
PO Box 819

Kelso, Wa. 98626

(360) 577-3301 (Telephone)

(360) 423-1738 (Facsimile)

APPROVED AS TO FORM:



Attest



<p>CITY OF BELLEVUE</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>CITY OF BURLINGTON</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>	<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>
<p>APPROVED AS TO FORM:</p> <p>_____</p>	<p>APPROVED AS TO FORM:</p> <p>_____</p>
<p>DES MOINES:</p> <p>CITY OF DES MOINES</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>EVERETT:</p> <p>CITY OF EVERETT</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>	<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>
<p>APPROVED AS TO FORM:</p> <p>_____</p>	<p>APPROVED AS TO FORM:</p> <p>_____</p>

<p>ISSAQUAH:</p> <p>CITY OF ISSAQUAH</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>KENT:</p> <p>CITY OF KENT</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>	<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>
<p>APPROVED AS TO FORM:</p> <p>_____</p> <p>_____</p>	<p>APPROVED AS TO FORM:</p> <p>_____</p> <p>_____</p>
<p>MOUNT VERNON:</p> <p>CITY OF MOUNT VERNON</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>RENTON:</p> <p>RENTON</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>	<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>

APPROVED AS TO FORM: <hr/>	APPROVED AS TO FORM: <hr/>
SEATAC: CITY OF SEATAC By: _____ Print Name: _____ Its: _____ Date: _____	SNOQUALMIE: CITY OF SNOQUALMIE By: _____ Print Name: _____ Its: _____ Date: _____
NOTICES TO BE SENT TO: <hr/> <hr/> <hr/> () _____ - _____ (Telephone) () _____ - _____ (Facsimile)	NOTICES TO BE SENT TO: <hr/> <hr/> <hr/> () _____ - _____ (Telephone) () _____ - _____ (Facsimile)
APPROVED AS TO FORM: <hr/>	APPROVED AS TO FORM: <hr/>
SUMNER: CITY OF SUMNER By: _____ Print Name: _____ Its: _____ Date: _____	COWLITZ : COWLITZ COUNTY By: _____ Print Name: _____ Its: _____ Date: _____
NOTICES TO BE SENT TO: <hr/> <hr/> <hr/>	NOTICES TO BE SENT TO: <hr/> <hr/> <hr/>

() _____ - _____ (Telephone)	() _____ - _____ (Telephone)
() _____ - _____ (Facsimile)	() _____ - _____ (Facsimile)
APPROVED AS TO FORM: _____	APPROVED AS TO FORM: _____

JOINT PROSECUTION AND CONFIDENTIALITY AGREEMENT

The undersigned parties have or will establish by interlocal agreement a coalition (hereinafter, the "Coalition of Governmental Entities," or "Coalition") to identify legal and other avenues available to appeal, challenge, or revise certain terms and conditions of the Washington Department of Ecology's Phase II National Pollutant Discharge Elimination System ("NPDES") Permit ("Phase II Storm Water Permit") issued on August 1, 2012 and which requires members of the Coalition to upgrade their storm water management programs. The Coalition was also formed to share information with regard to the propriety of bringing a challenge to the Phase II Storm Water permit, and compliance strategies associated with the Phase II Storm Water Permit. Certain terms and conditions of the Phase II Storm Water Permit may be difficult and/or impossible to comply with, may impose costly burdens on the public and members of the Coalition, and may also subject Coalition members to legal challenges by third parties. The Coalition's potential litigation associated with the Phase II Storm Water Permit may include, but shall not be limited to, pursuing an appeal before the Pollution Control Hearings Board (PCHB) and filing an action in Superior Court. Based on terms of the Interlocal Agreement, the Coalition may retain outside counsel ("Counsel") to represent the Coalition.

Recitals and Common Understandings

This Agreement is intended to apply to each and every Coalition member, their attorney(s), employees, consultants, and agents.

The Parties share a mutuality of interest in a common legal enterprise directed toward devising and pursuing a common legal strategy.

Counsel for each party, whether serving in-house or as outside counsel, wish to pursue ethically the separate but common interests of their client(s) without waiving any protections of the attorney-client privilege and the work product doctrine. Accordingly, any information or materials which otherwise would be protected from disclosure to third parties will remain confidential despite being made available to cooperating counsel and their clients. The Parties hereby enter into the following Joint Prosecution Confidentiality Agreement, which is executed on their behalf by their duly authorized respective counsel. This Agreement, to cooperate in a joint prosecution effort on a confidential and privileged basis, is pursuant to the joint prosecution privilege as recognized in such cases as *Wilson P. Abraham Construction Corp. v. Armco Steel Corp.*, 559 F.2d 250, 253 (5th Cir. 1977), and *United States v. Melvin*, 650 F.2d 641, 645-46 (5th Cir. 1981). The Parties further agree that the materials described herein are not routinely available in discovery during litigation, all

as described *NLRB v. Sears*, 421 U.S. 132 (1975). The Parties have concluded that, from time to time, their mutual interests will be best served by having their respective counsel share documents, oral representations, factual material, mental impressions, memoranda, witness statements, interview reports, and other information, including the confidences of the Parties (hereinafter "joint prosecution materials"), on the understanding and agreement that:

- (a) joint prosecution materials transmitted among counsel may contain confidential and privileged attorney-client communications;
- (b) joint prosecution materials transmitted among counsel may contain attorney work product similarly privileged; and
- (c) joint prosecution materials transmitted among counsel may contain materials protected by otherwise applicable privileges and rules of confidentiality.

Each Party agrees to take necessary and appropriate measures in good faith to protect information that is pooled and shared between the Parties for purposes of pursuing the Appeal or other litigation pursued jointly by the Coalition, and such pooled or shared privileged information will not be disclosed to any non-party without the prior written consent of the Steering Committee.

Although the Parties agree to pool and share information for purposes of pursuing the Coalition's legal objectives, no Party is obliged to share all information in its possession.

The entities signing the Interlocal Agreement are collectively referenced as "the Coalition of Government Agencies (Coalition)". Members of the Coalition and their respective attorney(s) are collectively referenced as the "Parties" and individually as a "Party."

The Parties agree that they have common and mutual interests in the Prosecution of the PCHB Appeal and the Superior Court litigation, as well as related litigation matters as authorized by the Coalition.

In order to facilitate a common Prosecution of the Appeal (and other litigation as authorized by the Coalition), the Parties agree as follows:

Agreement

1. Joint Prosecution Materials. The Parties agree it is in their mutual best interests to cooperate with each other and to share certain information protected by the attorney-client privilege, the work product doctrine, and the joint Prosecution privilege in order to explore their interests in potential litigation, and mutually assert common and/or joint prosecution of the claims that are or may be asserted in an Appeal, Superior Court

litigation, or related litigation authorized by the Coalition (collectively "Appeal-Related Litigation"). To further their common interests, the Parties intend to exchange privileged and work product information, both orally and in documents, possibly including but not limited to factual analyses, mental impressions, legal memoranda, conduct and prepare reports of witness interviews, draft briefs and pleadings, and other information ("Joint Prosecution Materials"). Such materials are subject to the attorney-client privilege or the attorney work product privilege, and the Parties would not disclose to any of the other Parties such Joint Prosecution Materials but for their mutual and common interests in Prosecution of the Appeal-Related Litigation and but for the undertakings in this Agreement. The Parties agree that such disclosure of Joint Prosecution Materials is not intended to waive any applicable privilege or protection, and the Parties waive any argument to the contrary.

2. Confidentiality and Nondisclosure Obligations. The Parties agree to maintain the confidentiality of all Joint Prosecution Materials. Except as may be required by court order, or permitted by agreement of all Parties who have not withdrawn under Section 5 below, none of the Parties will disclose Joint Prosecution Materials to any person or entity other than a Party who has not withdrawn from this Agreement. The Parties agree they will use Joint Prosecution Materials solely in connection with the Appeal-Related Litigation and for no other purpose. The Parties cannot use materials obtained pursuant to this Agreement in actions against each other, but must request the materials through normal discovery procedures, whether formal or informal, so that appropriate privileges can be asserted. In the event a Party receives a request, including, without limitation a subpoena or public records request under the Washington Public Disclosure Act, Ch. RCW 42.56, for the production of Joint Prosecution Materials, that Party will so notify all other Parties, and will take appropriate steps to oppose production of the requested Joint Prosecution Materials, including, but not limited to, seeking a protective order, and promptly giving all other Parties copies of said request(s) and the opportunity to seek a protective order against such disclosure. This Agreement does not prohibit disclosure by a Party of materials which that Party alone has prepared or obtained, which contain no privileged or protected information obtained directly or indirectly from another Party, and which are Joint Prosecution Materials only because that Party has delivered them to other Parties; nor does this Agreement prevent a Party from using in connection with the Prosecution of claims asserted in the Appeal-Related Litigation nonprivileged facts, documents, and theories which are learned or derived from Joint Prosecution Materials.

3. No Waivers. This Agreement does not create any agency or similar relationship among the Parties. No Party shall have authority to waive any applicable privilege or doctrine on behalf of any other Party; nor shall any waiver of an applicable privilege or doctrine by the conduct of any Party be construed to apply to any other Party.

4. Separate and Independent Representation. Nothing in this Agreement shall be construed to affect the separate and independent representation of the Parties by their respective counsel. Counsel for any individual party to this Agreement does not

represent any other party in the Litigation, but will cooperate with other Parties to this Agreement and counsel for other Parties. The scope of cooperation shall be strictly limited to the Litigation and no other matters. Counsel for individual Parties assumes no duty to communicate with other counsel pursuant to RPC 1.4. Each Party agrees to waive any claim it might have for disqualification of counsel for any other Party in the Appeal-Related Litigation or other proceedings based upon access to Joint Prosecution Materials. Nothing in the Agreement is intended to interfere with any attorney's obligation to ethically and properly represent their client(s). It is agreed that nothing herein will be deemed to create any attorney-client relationship between any of the undersigned counsel and anyone other than the respective client of that counsel as listed below.

5. Cooperation and Duties Continuing After Withdrawal. Each of the Parties participating in, or otherwise admitted to, this endeavor shall cooperate with the Steering Committee established by this Agreement. In that regard, each Party hereto, whether involved by participation, admission, or otherwise, hereby covenants and agrees that, in the event of withdrawal, each such Party shall not sue, harass, or in any form or manner interfere with the Coalition created by the Interlocal Agreement or with any of the remaining Parties, except as necessary to obtain the return of funds as provided in the Interlocal Agreement. This covenant shall specifically prohibit the sharing of any information obtained in any manner, directly or indirectly, as a result of the withdrawing party's involvement in the Coalition or otherwise pursuant to this Agreement unless otherwise required by public disclosure laws.

Any Party to this Agreement may withdraw on prior written notice to all other Parties. Any withdrawing Party shall continue to be bound by this Agreement with regard to any Joint Prosecution Materials received, divulged, or obtained at any time, and this Agreement will continue to protect all Joint Prosecution Materials disclosed to the withdrawing Party. Upon withdrawal, the withdrawing Party will prospectively cease to be entitled to receive any Joint Prosecution Materials, and must return to the sender all Joint Prosecution Materials received after the withdrawal. In the event a Party settles and/or withdraws from the Appeal-Related Litigation, that Party and its counsel will be deemed to have withdrawn as of the date of its settlement agreement or withdrawal, whichever occurs first. Any settling Party and its counsel must continue to keep in confidence and not disclose to any other individual or entity, any Joint Prosecution Materials received, divulged, or obtained by that Party or its counsel. If a Party's counsel ceases to be counsel for that Party, such counsel will be deemed to have withdrawn from this Agreement.

6. Duration of cooperation. Duration of Cooperation between the Parties shall continue until the completion of the Litigation or upon mutual termination of this Joint Prosecution Agreement by the Parties.

7. Creation of Coalition Steering Committee. There is hereby created a Steering Committee, comprised of individuals who serve in some capacity as attorneys

or storm-water program officials for various members of the Coalition. Those individuals are identified by name, jurisdiction, and job title in Attachment "A" hereto.

If it becomes necessary at any time to replace a member of the Steering Committee, the jurisdiction represented by that Committee member may appoint a substitute for the departing member. If the vacancy on the Steering Committee is occasioned by the withdrawal of his or her jurisdiction from the Coalition, the remaining members shall select a substitute Steering Committee member from amongst any volunteers from the remaining members of the Coalition.

- a. Intent and Purpose of Committee. Consistent with the underlying Interlocal Agreement establishing the Coalition and in recognition of the number of Coalition members, the Steering Committee is intended to provide an efficient and effective structure for the administration and oversight of the Legal Services provided and Appeal-Related Litigation pursued by the Coalition. The Steering Committee's function includes oversight of the legal services and costs incurred pursuant to the Interlocal Agreement and any other subjects necessary or appropriate to the administration of the Legal Services and prosecution of the Appeal-Related Litigation.
- b. Committee to Direct Litigation Strategy. The Steering Committee shall direct the litigation strategy in all Appeal-Related Litigation, and recommend positions on major policy decisions to the entire Coalition. Major policy decisions are defined as: 1) accepting or rejecting legal, financial or negotiated settlements, and 2) accepting new member applications or rejecting existing members. Prior to voting upon any negotiated settlement, all Coalition members shall receive by their respective governing Council or Board, resolutions from their respective jurisdictions authorizing approval or rejection of such settlement which shall be binding upon said representative. Any jurisdiction which fails to vote upon such resolution within 30 days of transmission by fax, email, or U.S. mail to the jurisdiction of the proposed settlement shall be deemed to approve the proposed settlement. Transmission is deemed complete by transmitting the fax or email or by depositing the settlement proposal in the U.S. mail. The Steering Committee may approve non-major policy decisions by majority vote, which include but are not limited to: 1) adoption of a litigation budget, 2) to approve or conclude consulting contracts, and 3) all other activities surrounding the Appeal-Related Litigation.
- c. Professional Services Authorized. The Steering Committee may, from time to time, approve retention of additional legal, engineering, or other professional assistance to carry out the purposes of this Agreement.
- d. Sharing of Work Product. Information and materials developed by providers of professional services, who are retained and are compensated pursuant to the provisions of this Agreement, shall be made available to each

party to this Agreement which has borne its share of the cost of providing such services in the manner provided herein.

e. Confidential Meetings. To the extent the Open Public Meetings Act might apply to the Steering Committee, if at all, in order to preserve confidentiality, all meetings of the Steering Committee shall be held in executive session pursuant to RCW 42.30.110(i) and all written materials transmitted by law firms retained by the Coalition or any member or successors or associates of such law firm(s) or any party to this Agreement shall be considered exempt from public inspection and copying under RCW 42.56 unless publicly cited by the party in connection with any party action.

8. Enforcement. The Parties agree that a breach of the provisions of this Agreement by a Party will cause irreparable harm to the other Parties and therefore agree that injunctive relief is an appropriate means to enforce this Agreement. In the event that any Party hereto institutes proceedings to enforce any provision hereof, the prevailing Party will be entitled to be reimbursed for reasonable costs, expenses, and attorney fees incurred.

9. Modification. This Agreement may be modified only with the written consent of all of the Parties.

10. Governing Law. This Agreement is entered into under the laws of the State of Washington. If it becomes necessary to interpret any of the Agreement's terms, it is the intent of the Parties that the laws of the State of Washington shall apply.

11. Binding Effect. This Agreement is binding upon and inures to the benefit of the Parties and their respective heirs, legatees, representatives, attorneys, successors, transferees, and assigns.

12. Severability. If any provision of this Agreement is deemed by law to be void, invalid or inoperative for any reason, that provision will be deemed modified to the extent necessary to make it valid and operative or, if it cannot be so modified, then such provision will be deemed severed from this Agreement, with the remaining Agreement continuing in full force and effect as if the Agreement had been signed with the void, invalid or inoperative provision eliminated.

13. Successors and Assigns. This Agreement will inure to and be binding upon the successors and assigns of the signatories hereto.

14. Entire Agreement/Counterparts. This Agreement contains the entire agreement between the Parties as to its subject matter. There are no third-party beneficiaries to this Agreement. This Agreement may be signed in any number of multiple counterparts, through original and/or facsimile signature, each of which will be considered to be a duplicate original, and will be considered to be one and the same

instrument.

15. Effective Date. This Joint Prosecution and Confidentiality Agreement memorializes prior oral understandings pursuant to which information may have been exchanged. The Parties mutually understand and agree that all information previously exchanged, if any, between or among the Parties for purposes of the Litigation is subject to the provisions of this Agreement and the intent of this Agreement is to maintain the confidences and privileges of the Joint Parties. This Agreement incorporates the prior intent and practice of the Parties and is effective as of _____, _____, 2012.

16. This Agreement is executed by the Parties by and through their counsel, who sign as well on behalf of themselves. Each Parties' signature to this Agreement represents a certification that counsel for such party has explained this Agreement to their respective client(s) and that the client agrees to abide by the understandings reflected herein. Counsel each represent and warrant that they have full power and actual authority to bind their respective client(s).

17. Additional Parties. The undersigned acknowledge that additional Parties may enter into this Agreement at a later date. Such subsequent entry by an additional party shall not be construed as a waiver of any privilege sought to be preserved by this Agreement.

Dated this ___ day of _____, 2012.

CITY OF AUBURN

CITY OF BELLEVUE

By _____
Daniel B. Heid, City Attorney

By _____
Lori M. Riordan, City Attorney

SKAGIT COUNTY

CITY OF BURLINGTON

By _____
[Insert], Deputy Prosecutor

By _____
Scott Thomas, City Attorney

CITY OF EVERETT

CITY OF EDMONDS

By _____
James Iles, City Attorney

By _____
Jeff Taraday, City Attorney

CITY OF FEDERAL WAY

By _____
Patricia Richardson, City Attorney

CITY OF KENMORE

By _____
Rod Kaseguma, City Attorney

CITY OF KIRKLAND

By _____
Robin Jenkinson, City Attorney

CITY OF SNOQUALMIE

By _____
Pat Anderson, City Attorney

CITY OF LAKE FOREST PARK

By _____
Bob Sterbank, City Attorney

CITY OF PORT ANGELES

By _____
William Bloor, City Attorney

CITY OF SEA-TAC

CITY OF ISSAQUAH

By _____
Wayne Tanaka, City Attorney

CITY OF KENT

By _____
Thomas Brubaker, City Attorney

CITY OF MARYSVILLE

By _____
Grant Weed, City Attorney

CITY OF MOUNT VERNON

By _____
Kevin Rogerson, City Attorney

CITY OF POULSBO

By _____
James Haney, City Attorney

CITY OF RENTON

By _____
Larry Warren, City Attorney

CITY OF SAMMAMISH

By _____
Mary Mirante-Bartolo, City Attorney

CITY OF DUVALL

By _____
Bruce Disend, City Attorney

CITY OF KELSO

By  _____
Janean Parker, City Attorney

By _____
Bruce Disend, City Attorney

CITY OF SUMNER

By _____
Brett Vinson, City Attorney

FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE CITIES OF AUBURN, BAINBRIDGE ISLAND, BELLEVUE, BOTHELL, BREMERTON, BURLINGTON, CAMAS, DES MOINES, EVERETT, FERNDALE, ISSAQUAH, KELSO, KENT, KIRKLAND, LONGVIEW, LYNNWOOD, MOUNT VERNON, POULSBO, RENTON, SAMMAMISH, SEATAC, SNOQUALMIE AND SUMNER AND COWLITZ COUNTY REGARDING LEGAL SERVICES

THE INTERLOCAL AGREEMENT (“Agreement”) is entered into between the Cities of Auburn, Bainbridge Island, Bellevue, Bothell, Bremerton, Burlington, Camas, Des Moines, Everett, Ferndale, Issaquah, Kelso, Kent, Kirkland, Longview, Lynnwood, Mount Vernon, Poulsbo, Renton, Sammamish, SeaTac, Snoqualmie, Sumner and Cowlitz County is hereby amended as follows:

Paragraph 4.1 of the Interlocal is hereby amended to read as follows:

4.1 The Legal Services’ fees and costs shall be shared by members of the Coalition based upon the cost-sharing formula set forth in the First Amended Exhibit “A” attached hereto and incorporated by this reference. This obligation shall continue through conclusion of the Legal Services as provided in Paragraph 2 above, unless a member of the Coalition terminates its participation in this Agreement as provided in Paragraph 5. Members of the Coalition hereby authorize said fees and costs up to \$675,000. Provided, however, any increase in the cost of legal services that would require additional payments from any Coalition members in excess of the obligations set forth in the First Amended Exhibit “A” shall require amendment of this Agreement unless an individual Coalition member expressly volunteers to increase its share without the necessity of amendment of this Interlocal Agreement.

All other provisions of the Interlocal Agreement remain in full force and effect.

IN WITNESS, the parties below execute this First Amendment to the Coalition Interlocal Agreement which shall become effective as of _____, 2013.

<p>AUBURN:</p> <p>CITY OF AUBURN</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>BAINBRIDGE ISLAND:</p> <p>CITY OF BAINBRIDGE ISLAND</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p>	<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p>

<p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>	<p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p> <p>() _____ - _____ (Facsimile)</p>
APPROVED AS TO FORM:	APPROVED AS TO FORM:
_____	_____

<p>BELLEVUE:</p> <p>CITY OF BELLEVUE</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>BOTHELL:</p> <p>CITY OF BOTHELL</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
NOTICES TO BE SENT TO:	NOTICES TO BE SENT TO:
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<p>BREMERTON:</p> <p>CITY OF BREMERTON</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>BURLINGTON:</p> <p>CITY OF BURLINGTON</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>

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CAMAS: CITY OF CAMAS By: _____ Print Name: _____ Its: _____ Date: _____	COWLITZ COUNTY: COWLITZ COUNTY By: _____ Print Name: _____ Its: _____ Date: _____
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DES MOINES: CITY OF DES MOINES	EVERETT: CITY OF EVERETT

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<p>FERNDALE:</p> <p>CITY OF FERNDALE</p> <p>By: _____ Print Name: _____ Its: _____ Date: _____</p>	<p>ISSAQUAH:</p> <p>CITY OF ISSAQUAH</p> <p>By: _____ Print Name: _____ Its: _____ Date: _____</p>
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<p>CITY OF KELSO</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>CITY OF KENT</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
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<p>POULSBO:</p> <p>CITY OF POULSBO</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>RENTON:</p> <p>CITY OF RENTON</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
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FIRST AMENDED EXHIBIT "A"

TO

INTERLOCAL AGREEMENT REGARDING LEGAL SERVICES

For purposes of pursuing an appeal of the 2013-18 NPDES permit issued by the state Department of Ecology on August 1, 2012, the following delineates the financial contributions to be made by members of the Governmental Entities Coalition.

Entities with a population of up to 10,000:	\$15,000
Entities with a population between 10,001 and 30,000	\$22,500
Entities with a population between 30,001 and 50,000	\$30,000
Entities with a population above 50,000	\$37,500

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE: Authorizing Alternate Employee Health and Dental Benefit Plans

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: October 1st, 2013

Originator: Steve Taylor

PRESENTED BY:

Steve Taylor

City Attorney: Janean Parker

City Manager: Steve Taylor

Agenda Item Attachments:

CWCOG Dental and Vision Plan Proposals

SUMMARY STATEMENT:

The City currently provides dental and vision benefits to all employees through the Oregon Teamster Trust. The dental and vision plans are offered as a package with one composite rate. Dental and vision benefit premiums are authorized to be paid in full by the City for employees and eligible dependents through the Employee Health Benefit Policy and the respective collective bargaining agreements.

The current Teamster dental plan has limited "in network" providers in the Kelso/Longview area which has a limiting effect on employees and unnecessarily increases their out-of-pocket expenses for these services. The City asked the CWCOG's benefit administrator, Interwest Benefits, to prepare alternative affordable proposals to offer to employees. Initially these plans would be open for non-represented employees, but unionized employees could bargain with the City to amend their agreements to include these new plans.

The CWCOG vision and dental plans and proposed monthly premiums are listed below, as well as the current cost of the Teamster composite plans:

- Oregon Teamsters Trust Dental/ VSP Vision Composite - \$104.86/month
- CWCOG Kaiser Permanente HMO Dental Plan Q - \$110.74/month
- CWCOG Kaiser Permanente PPO Dental Plan FH - \$114.67/month

- CWCOG Vision Service Plan Plan B Copay: \$10 exam / \$10 materials - \$10.44/month

The highest cost combination (Dental Plan PPO with VSP plan) is \$125.11 or \$20.25 per month additional cost per employee amounting to an additional \$243.00 premium expense per year. With the significant savings realized from the movement of employees to the current Employee Health Benefits Plan in 2013 and 2014, this additional cost is minimal but provides better coverage for most employees.

It is important to note that eligible employees wishing to retain their Oregon Teamsters Dental and Vision coverage will be allowed to do so.

RECOMMENDED ACTION:

Move to authorize the provision of alternate dental and vision benefit plans (Kaiser Permanente Q and FH; VSP Plan B Copay \$10 exam / \$10 materials) to City employees through the Cowlitz Wahkiakum Council of Governments group insurance plan.

VSP Signature Plan® Proposal

Prepared for City of Kelso



Our Member Promise guarantees that employees are completely satisfied with their eyecare and eyewear from VSP providers or we'll make it right. This includes satisfaction with out-of-pocket costs, consumer's #1 priority in a vision plan.

Benefit	VSP Preferred Providers subject to applicable copays ¹	Other Providers subject to applicable copays ¹
WellVision Exam	Covered-in-full ¹ Routine retinal screening guaranteed pricing, not to exceed \$39	Reimbursed up to \$50
Contact Lens Exam - Fitting and Evaluation (when choosing contacts)	Standard and premium fit : covered in full after copay - 15% off contact lens exam services; copay will never exceed \$60	See elective contact lenses
Single Vision Lenses	Covered-in-full ¹	Reimbursed up to \$50
Lined Bifocal Lenses	Covered-in-full ¹	Reimbursed up to \$75
Lined Trifocal Lenses	Covered-in-full ¹	Reimbursed up to \$100
Lenticular Lenses	Covered-in-full ¹	Reimbursed up to \$125
Frame	Covered-in-full ¹ up to \$130 allowance (\$50 wholesale) 20% discount on any amount exceeding retail allowance Members who select a featured frame brand including bebe®, ck Calvin Klein, Flexon, Lacoste, Michael Kors, Nike, Nine West, and more will receive an extra \$20 toward their frame allowance, beginning January 1, 2014. ²	Reimbursed up to \$70
Elective Contact Lenses	Covered up to \$130 (instead of lenses and frames) Mail-in rebate savings ³ up to \$60 on eligible Bausch & Lomb contacts and up to \$125 on eligible ACUVUE Brand Contacts	Reimbursed up to \$105 ⁸ (includes contact lens exam and materials)
Necessary Contact Lenses ⁴	Covered-in-full ¹ (instead of lenses and frames)	Reimbursed up to \$210

Benefit

Benefit Highlights

	Covered-in-full with a copay, saving our members an average of 35-40%. Maximum copay on some of our popular lens options:
Lens Options	Standard Progressives Plastic \$50 copay
	Premium Progressives Plastic \$80-90 copay
	Custom Progressives Plastic \$120-160 copay
	Solid Tints & Dyes (Pink I&II) Covered-in-full
	Solid Plastic Dye (except Pink I & II) \$13 copay
	Plastic Gradient Dye \$15 copay
	UV Protection \$14 copay
	Factory Applied Scratch-resistant Coating \$15 copay
	Polycarbonate Lenses Covered in full for dependent children \$23 single vision or \$28 multi-focal copay
	Standard Anti-reflective Coating \$37 copay Photochromic Lenses Plastic \$62 single vision or \$76 multi-focal copay
Primary EyeCare PlanSM	Supplemental coverage for non-surgical medical eye conditions, such as pink eye and other urgent eyecare - \$20 copay per visit
Low Vision	Supplemental testing covered every two years 75% of the cost for approved low vision aids, \$1,000 maximum (less any amount paid for testing)
Additional Glasses	30% discount on additional complete pairs of prescription and non-prescription glasses (includes sunglasses) ⁵
Laser VisionCare Program⁶	15% average discount or 5% off promotional price for PRK, LASIK, and Custom LASIK ⁷ Members who've had LVC surgery can use their frame benefit for non-prescription sunglasses
Exclusions and Limitations⁹	There may be some materials and services with either limited or no coverage under this plan Please contact your VSP representative for more information

¹ When covered-in-full services are obtained from a VSP Preferred Provider, the patient will have no out-of-pocket expense other than any applicable copays. Services and eyewear obtained through other providers are subject to the same copay and limitations. Please refer to rate page.

² Featured frame brands are subject to change.

Our proposal is based on the scope of the obligations that VSP agrees to undertake. VSP will comply with state and/or federal rules and regulations as they pertain to pre-paid vision plans with a defined benefit

³ Rebates subject to change.

⁴ Necessary contact lenses and fitting and evaluation are covered-in-full for members who have specific conditions for which contact lenses provide better visual correction.

⁵ 30% discount applies to glasses purchased the same day as the member's eye exam from the same VSP Preferred Provider who provided the exam. Members will also receive 20% off unlimited additional pairs of glasses valid through any VSP Preferred Provider within 12 months of the last covered eye exam.

⁶ LaserVision Care discounts are only available from VSP-contracted facilities.

⁷ Custom LASIK coverage only available using wavefront technology with the microkeratome surgical device. Other LASIK procedures may be performed at an additional cost to the member.

⁸ If \$100 allowance is purchased, Other Providers will reimburse up to \$85.

⁹ Coverage shall be governed solely by the terms of your VSP contract.

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Exclusive Offers

We've teamed up with market leaders in the eyecare industry to provide exclusive offers to VSP members. Check out a sample below.

Contacts

- Exclusive mail-in rebate savings of up to \$125 on eligible ACUVUE Brand Contact Lenses® and \$60 or more on eligible Bausch & Lomb® contacts
- Free trial certificates for ACUVUE Brand Contact Lenses and Bausch & Lomb contacts
- Guaranteed satisfaction on ACUVUE Brand Contact Lenses

Glasses

- Up to 45% savings on Crizal No-Glare technology*
- Exclusive average savings of \$325 on Nike-authorized prescription sunglasses*
- Up to 40% savings on Transitions* Adaptive lenses and risk-free trial for six months*
- Up to 50% savings on UNITY® digital lenses*
- 100% satisfaction guarantee for a full year on PhotoFusion®, the self-tinting lenses by ZEISS

LASIK

- Additional savings of up to \$500 on LASIK from NVISION Laser Eye Centers
- Up to \$400 savings on LASIK from TLC Laser Eye Centers® plus a \$100 VISA® gift card to spend after the procedure

More Offers

- Free shipping, shop-at-home convenience, and savings on contacts and sunglasses at eyeconic.com

Hearing Aids

Your employees will also be able to save on hearing aids through TruHearing®. TruHearing is a discount medical organization that contracts with a national network of audiologists and hearing instrument specialists for aggressive discounts on state-of-the-art digital hearing aids. All VSP members and their covered dependents have free access (\$108 value) to the TruHearing MemberPlus® Program to enjoy up to 50% savings on some of the most popular digital hearing aids on the market. Plus, they can sign up extended family members for a VSP-exclusive rate of \$71 each to enjoy the same great savings. Best of all, this special offer can be combined with a member's existing hearing aid benefit to maximize savings and reduce their out-of-pocket expense.

We're always adding new offers. Your employees can learn more about these and other offers at vsp.com/specialoffers.

* Savings based on doctor's retail price and vary by plan and purchase selection; average savings determined after benefits are applied. Available only through VSP doctors to VSP members with applicable plan benefits.

The VSP Effect:

It's when smarter vision care doubles as preventative medicine.

Controlling healthcare costs is now the top benefits objective for employers¹, and with good reason. As chronic condition diagnoses increase, so do healthcare costs, absenteeism, and lost productivity. Increase the number of employees receiving preventive services, and you can bend the trend of rising healthcare costs. That's the VSP Effect.

Higher Enrollment

- More people enroll in VSP when multiple vision plans are offered
- Re-enrollment is higher among VSP members than other vision plans.²
- VSP ranks above the industry average in overall member satisfaction.²

Positive Utilization

- More VSP members use their benefit than members of competing vision plans.²
- VSP members are three times more likely to get an eye exam than a physical.³
- VSP Preferred Providers can detect signs of chronic conditions such as diabetes, hypertension, high cholesterol, and more - before symptoms emerge.

Healthier Employees

- VSP Smart Data ManagementSM collects broad health information on all VSP members when they visit a VSP provider.
- VSP Smart Patient OutreachSM tracks health data to send out yearly eye exam reminders, and 18% more of our members with diabetes return for their eye exams.
- 1.7 million VSP members have been identified with chronic conditions over the last five years.

127% ROI

- For every \$1 invested in VSP exam services, you can expect on average, a two-year total return of \$1.27 through avoided medical costs and improved human capital performance.⁴
- For every 100 of your employees with early detection of diabetes through an eye exam, your company saves \$140,000 in healthcare costs in the first 12 months after identification.⁴

¹ MetLife 8th Annual Study of Employee Benefit Trends, 2010

² Synovate, a leading market research firm, surveyed members of four national vision vendors in 2010 to find out what was most important to them and how their plans compared.

³ Archives of Internal Medicine, Preventive Health Examinations, and Preventive Gynecological Examinations in the United States, 2007; VSP utilization data based on an annual benefit with low copays and covered lens options.

⁴ Human Capital Management Services (HCMS) study on behalf of VSP, 2010.

VSP is a registered trademark of Vision Service Plan. VSP Smart Data Management and VSP Smart Patient Outreach are service marks of Vision Service Plan.

Our proposal is based on the scope of the obligations that VSP agrees to undertake. VSP will comply with state and/or federal rules and regulations as they pertain to pre-paid vision plans with a defined benefit

The Real Cost of Vision Care

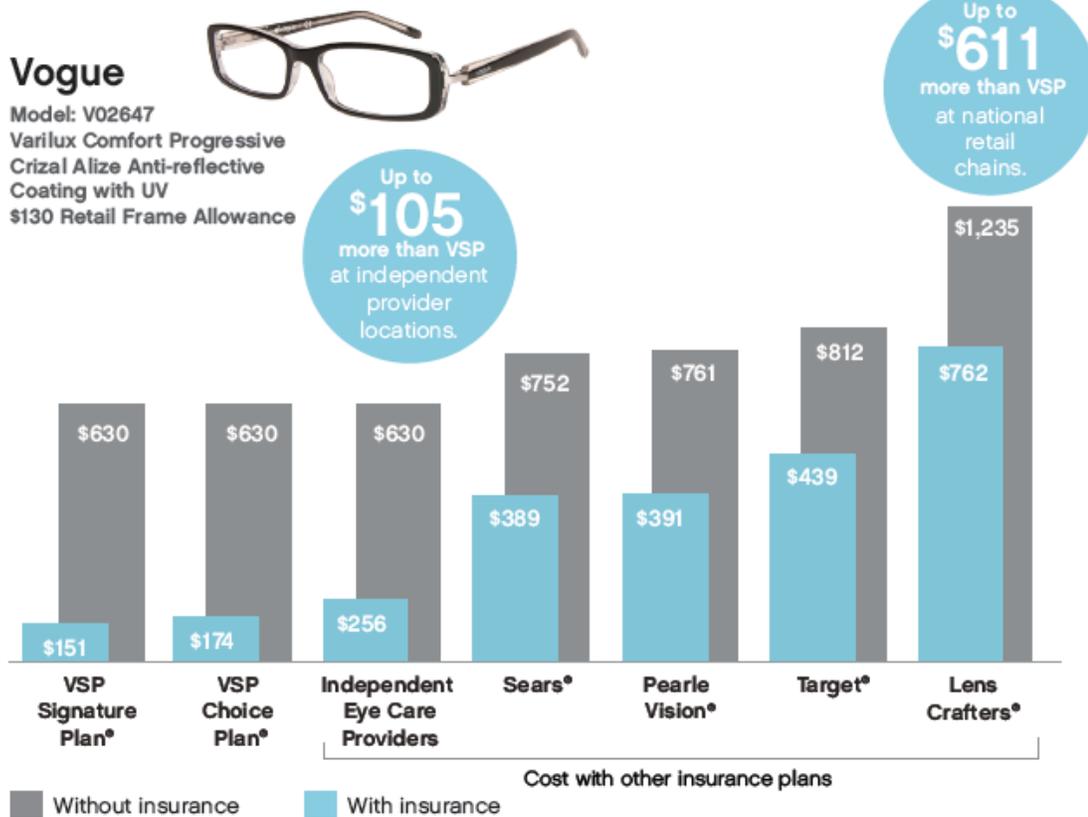
While it's important to look at premium costs, you shouldn't lose sight of out-of-pocket costs - employees' #1 priority in a vision plan.¹

#1 EMPLOYEE PRIORITY

in a vision plan is low out-of-pocket costs.

Could your vision plan be taking money out of your employees' pockets?

National retail pricing research demonstrated that the same glasses cost substantially less with VSP[®] than with other vision coverage.



The research² conducted by Service Excellence Group, Inc. compared the same, popular, eyeglasses at independent doctors and retail chains.

Ray-Ban[®]

Model: RX5245



Up to **\$577** more than VSP at national retail chains.

See chart on back.

Coach[®]

Model: HC6011



Up to **\$580** more than VSP at national retail chains.

See chart on back.

**Look beyond the premium and see the real cost of vision.
 Give your employees the lowest out-of-pocket costs with VSP.**

Our proposal is based on the scope of the obligations that VSP agrees to undertake. VSP will comply with state and/or federal rules and regulations as they pertain to pre-paid vision plans with a defined benefit

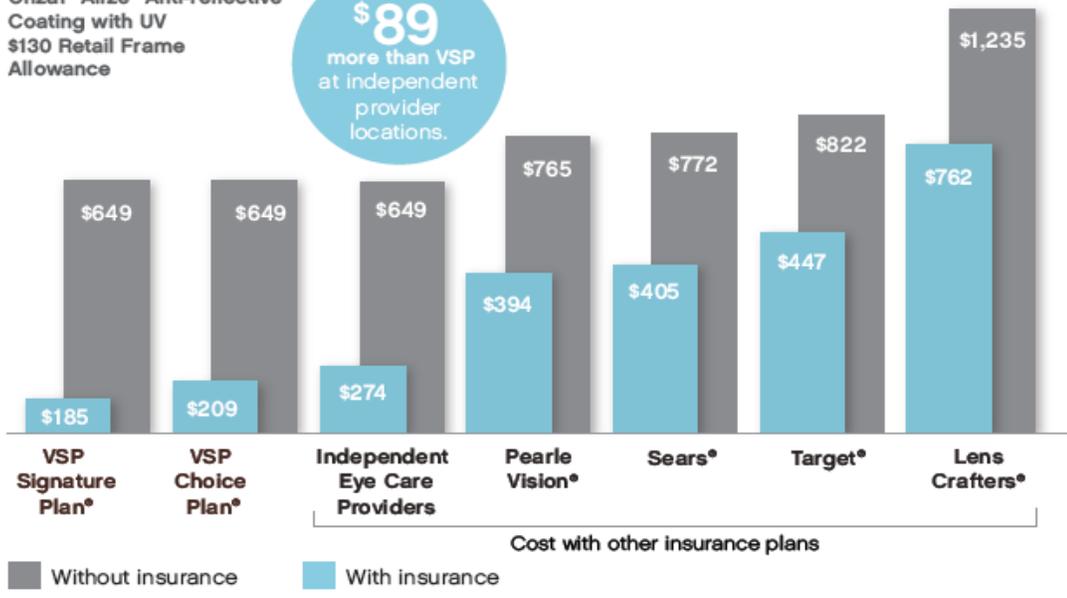
Ray-Ban®



Model: RX5245
 Varilux® Comfort Progressive
 Crizal® Alize® Anti-reflective
 Coating with UV
 \$130 Retail Frame
 Allowance

Up to
\$577
 more than VSP
 at national
 retail
 chains.

Up to
\$89
 more than VSP
 at independent
 provider
 locations.



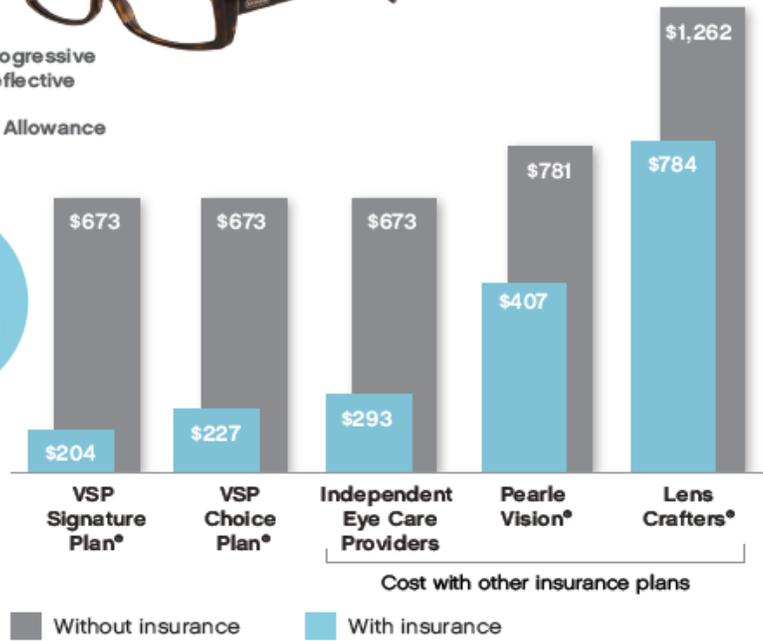
Coach



Model: HC6011
 Varilux Comfort Progressive
 Crizal Alize Anti-reflective
 Coating with UV
 \$130 Retail Frame
 Allowance

Up to
\$580
 more than VSP
 at national
 retail
 chains.

Up to
\$89
 more than VSP
 at independent
 provider
 locations



***Designer Coach frames not available at Target or Sears**

¹Jobson's 2012 Consumer Perceptions of Managed Vision Care
²Study was commissioned by VSP and conducted from November to December 2012. Study sample consisted of randomly selected, geographically representative shops -nearly 850 private-practice independent doctor locations and nearly 450 retail chain locations.

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 VSP, Vision care for life, VSP Signature Plan, and VSP Choice Plan are registered trademarks of Vision Service Plan. All other company names and brands are trademarks or registered trademarks of their respective owners

Our proposal is based on the scope of the obligations that VSP agrees to undertake. VSP will comply with state and/or federal rules and regulations as they pertain to pre-paid vision plans with a defined benefit

VSP SIGNATURE PLAN®
COMMERCIAL BUSINESS RATES
 10-99 Enrolled Employees
 For Clients Headquartered in Washington
 Valid Until January 1, 2014



Prepared for City of Kelso

Plan Guidelines

- Individual Experience is not available for Pooled Groups
- 24 month rate guarantee and contract term
- These rates assume 75% or more participation of all eligible employees and dependents. If employee contributions are involved, VSP requires 75% or more participation of all eligible employees and dependents.
- Rates are based on our sliding 10% commission scale and the agreement that VSP will receive these amounts over the full plan term
- The first copay applies to the eye examination and the second copay applies to materials
- Rates include all applicable taxes and health assessment fees known as of the date of the proposal

Plan Frequencies

	PLAN C	PLAN B	PLAN A
Eye Exam	12 Months	12 Months	12 Months
Lens	12 Months	12 Months	24 Months
Frame	12 Months	24 Months	24 Months

The difference in the following plans is the intervals when services are available, as shown above. The base rates quoted reflect VSP's standard in-network retail allowances of \$130 for frames and \$130 for elective contact lenses. The 12/12/12 option includes tinted or photochromic lenses at no extra cost.

MONTHLY RATES

Composite Basis	Composite
PLAN C Copay: \$10/10	\$13.81
\$100.00 Elective Contact Lens Allowance	(\$0.41)
\$100.00 Retail Frame Allowance	(\$0.43)
Total:	\$12.97

Composite Basis	Composite
PLAN C Copay: \$10/20	\$12.74
\$100.00 Elective Contact Lens Allowance	(\$0.38)
\$100.00 Retail Frame Allowance	(\$0.40)
Total:	\$11.96

Composite Basis	Composite
PLAN B Copay: \$10/10	\$11.12
\$100.00 Elective Contact Lens Allowance	(\$0.33)
\$100.00 Retail Frame Allowance	(\$0.35)
Total:	\$10.44

Composite Basis	Composite
PLAN B Copay: \$10/20	\$10.26
\$100.00 Elective Contact Lens Allowance	(\$0.31)
\$100.00 Retail Frame Allowance	(\$0.32)
Total:	\$9.63

Our proposal is based on the scope of the obligations that VSP agrees to undertake. VSP will comply with state and/or federal rules and regulations as they pertain to pre-paid vision plans with a defined benefit

 RATE PROPOSAL

GROUP NAME: Cowlitz-Wahkiakum Council of Governments (CWCOG)
2014 Dental Options

GROUP NUMBER(S): Varies

Effective from 01/01/2014 through 12/31/2014



Rate and Benefit Summary – Dental

Region: Northwest

Group Name: Cowlitz-Wahkiakum Council of Governments (CWCOG)
Group Numbers: Varies
Product Type: Traditional
Quote Name: Plan Q

Contract Period: 01/01/2014 – 12/31/2014
Average Members: 387

Proposed Rates

Rate Tiers	Dental	Ratio
Subscriber only	\$47.26	1.00
Subscriber and 1 dependent	94.52	2.00
Subscriber and 2 or more dependents	141.78	3.00
Composite Rate:		110.74

Proposed Traditional Benefits

Dental Plan: Q

- Preventive and diagnostic: 100%
- Restorative: 100%
- Extractions: 100%
- Oral surgery: 100%
- Periodontics: 80%
- Endodontics: 80%
- Prosthetics: 50% coverage for prosthetics (crown / bridge)
- Removable prosthetics: 50% coverage for removable prosthetics
- Implants: Not Covered
- Benefit Max: No benefit maximum

Orthodontics Plan: P

- Eligibility: Orthodontic benefits are for adults and children
- Coverage: Member pays 50% of charges up to \$3,000 maximum Plan payment

Deductible Benefit: X

- Annual deductible: No Deductible

Office Visit Benefit: 05

- Office visit copay: \$5.00


Rate Assumptions and Requirements

Group Name: CWCOG
Group Number(s): Varies

Region: Northwest
Contract Period: 01/01/2014 – 12/31/2014
KP Offered: Alongside other carriers

Proposal Assumptions

The proposed rates & benefits included on the Rate and Benefit Summary page are based on the requirements outlined in sections 1 through 9 as well as any group specific requirements outlined below. If any of the following are not met, Kaiser Permanente (KP) reserves the right to withdraw our rate proposal, decline coverage, re-rate this proposal or terminate your Group Agreement.

- | | |
|---|--|
| <p>1. Offering Terms: Alongside other carriers</p> | <p>Plan Type Offered: Traditional</p> |
|---|--|
2. Rate quote assumes a 12-month policy period of 01/01/2014 through 12/31/2014
 3. **Participation and contribution requirements:**
 - a. Proposed rates and benefits assume 75% of overall eligible group employees enroll in a company-sponsored plan excluding those waiving for alternative group coverage.
 - b. Proposal assumes employer pays at least 50% of the employee only cost and is non-discriminatory.
 4. **Participation requirements:**
 - a. Proposed rates & benefits assume 75% of total eligible group employees enroll in a company sponsored plan (excluding those waiving for other coverage) if the employer contribution is less than 100% of the employee only rate. If the employer contributes 100% of the employee only premium, 100% of eligible employees must enroll in a company sponsored plan.
 - b. Proposed rates & benefits assume 50% of total eligible group dependents enroll in a company sponsored plan (excluding those waiving for other coverage) if the employer contribution is less than 100% of the premium for dependents. If the employer contributes 100% of the premium for dependents, 100% of eligible dependents must enroll in a company sponsored plan.
 5. **Renewal assumes Kaiser Permanente is offered alongside another dental plan:**
 - a. Kaiser Permanente must be offered on conditions that are no less favorable than those for other dental care plans. Examples include but are not limited to, the following:
 - i. Kaiser Permanente is offered to all eligible employees.
 - ii. Kaiser Permanente has access to employer and employees on the same basis as all other dental plans offered.
 - iii. The employer's contribution formula does not put Kaiser Permanente in a disadvantaged position. Acceptable forms include, but are not limited to, fixed employer dollar or percentage contribution.
 - iv. Kaiser Permanente is not offered alongside plans with pre-existing condition provisions, dental condition exceptions, or waiting periods.
 - v. Eligibility rules such as dependent age limits and waiting periods for new hires are the same for all dental plans.
 - vi. No other plan is allowed preferential treatment that adversely affects Kaiser Permanente.
 - b. Basic dental and optional dental benefits are comparable to other plans being offered.
 - c. Rate ratios and their definitions are uniform across all plans. If this is not the case, Kaiser Permanente must not be put at a disadvantage.
 - d. Kaiser Permanente will not be offered alongside an "age-rated" plan.
 - e. Rates are based on total current enrollment. If membership increases or decreases by more than 10%, Kaiser Permanente reserves the right to re-rate or rescind the quote.
 - f. Rates assume no significant shift (+/- 10%) in employee class (e.g. actives to early retiree or COBRA) following open enrollment. Kaiser Permanente reserves the right to re-rate or rescind the quote if such a shift occurs.
 6. **Product-specific participation requirements:**
 - a. Dental coverage is not allowed on a voluntary basis.
 - b. Employees must live or work in the Kaiser Permanente service area.
 - c. If an "in-area" employee has dependents that live outside the service area, the employee and dependents must be enrolled on the same product.
 - d. If only one Kaiser Permanente plan is offered to employees, the number of employees enrolled on the Kaiser Permanente plan must be the greater of 5 or 5% of all eligible employees.
 - e. If both a Kaiser Permanente HMO and PPO dental plan are offered to employees, a minimum of 15% of all eligible employees must enroll in a Kaiser Permanente dental plan.
 - f. Dental coverage is not offered to retirees.
 7. **Renewal requires eligibility for Kaiser Permanente plan based on the following:**
 - a. The employer can not be considered a small group according to state or federal law.
 - b. The employer must have an employer/employee relationship to those offered a Kaiser Permanente plan.
 - c. Eligible employees are defined as active, permanent employees on the employer's payroll working a minimum of 50% of a full-time schedule. Temporary and/or Seasonal employees and independent contractors (e.g. 1099 employees) are not eligible.
 - d. 100% of eligible employees must be covered by Worker's Compensation, where mandated by law.
 - e. The probationary period for new employees is non-discriminatory and reflects no more than a 120-day waiting period.
 - f. It is the employer's responsibility to comply with appropriate COBRA statutes including enrolling eligible COBRA employees into the Kaiser Permanente COBRA plan in compliance with federal law.
 8. **Compliance:**
 - a. Kaiser Permanente reserves the right to make any change in the employer group's benefits and/or rates due to changes in state or federal legislation or regulatory action.
 9. **The contracting employer must also meet all other group-specific responsibilities and requirements described in your Group Agreement.**

 RATE PROPOSAL

GROUP NAME: Cowlitz-Wahkiakum Council of Governments (CWCOG)
2014 Dental Options

GROUP NUMBER(S): Varies

Effective from 01/01/2014 through 12/31/2014



Rate and Benefit Summary – Dental

Region: Northwest

Group Name: Cowlitz–Wahkiakum Council of Governments (CWCOG)
Group Numbers: Varies
Product Type: PPO
Quote Name: Plan FH

Contract Period: 01/01/2014 – 12/31/2014
Average Members: 387

Proposed Rates

Rate Tiers	Dental	Ratio
Subscriber only	\$48.94	1.00
Subscriber and 1 dependent	97.88	2.00
Subscriber and 2 or more dependents	146.82	3.00
Composite Rate:		114.67

Proposed PPO Benefits

Dental Plan: FH

- Preventive and diagnostic: 100%
- Restorative: 80% (After deductible)
- Extractions: 80% (After deductible)
- Oral surgery: 80% (After deductible)
- Periodontics: 80% (After deductible)
- Endodontics: 80% (After deductible)
- Prosthetics: 50% coverage for prosthetics (crown / bridge) (After deductible)
- Removable prosthetics: 50% coverage for removable prosthetics (After deductible)
- Implants: Not Covered (After deductible)
- Benefit Max: \$1,500 benefit maximum (Preventive services do not apply)

Out of Network Benefits: UCC

- Preventive and diagnostic: 100%
- Restorative: 80% (After deductible)
- Extractions: 80% (After deductible)
- Oral surgery: 80% (After deductible)
- Periodontics: 80% (After deductible)
- Endodontics: 80% (After deductible)
- Prosthetics: 50% coverage for prosthetics (crown / bridge) (After deductible)
- Removable prosthetics: 50% coverage for removable prosthetics (After deductible)
- Benefit Max: \$1,500 benefit maximum. (Preventive services do not apply)

Orthodontics Plan: P

- Eligibility: Orthodontic benefits are for adults and children
- Coverage: Member pays 50% of charges up to \$3,000 maximum Plan payment

Deductible Benefit: 50

Annual deductible: \$50.00 Individual / \$150.00 Family

Office Visit Benefit: 00

Office visit copay: \$0.00


Rate Assumptions and Requirements

Group Name: CWCOG
Group Number(s): Varies

Region: Northwest
Contract Period: 01/01/2014 – 12/31/2014
KP Offered: Alongside other carriers

Proposal Assumptions

The proposed rates & benefits included on the Rate and Benefit Summary page are based on the requirements outlined in sections 1 through 9 as well as any group specific requirements outlined below. If any of the following are not met, Kaiser Permanente (KP) reserves the right to withdraw our rate proposal, decline coverage, re-rate this proposal or terminate your Group Agreement.

1. **Offering Terms: Alongside other carriers** **Plan Type Offered: PPO**
2. **Rate quote assumes a 12-month policy period of 01/01/2014 through 12/31/2014**
3. **Participation and contribution requirements:**
 - a. Proposed rates and benefits assume 75% of overall eligible group employees enroll in a company-sponsored plan excluding those waiving for alternative group coverage.
 - b. Proposal assumes employer pays at least 50% of the employee only cost and is non-discriminatory.
4. **Participation requirements:**
 - a. Proposed rates & benefits assume 75% of total eligible group employees enroll in a company sponsored plan (excluding those waiving for other coverage) if the employer contribution is less than 100% of the employee only rate. If the employer contributes 100% of the employee only premium, 100% of eligible employees must enroll in a company sponsored plan.
 - b. Proposed rates & benefits assume 50% of total eligible group dependents enroll in a company sponsored plan (excluding those waiving for other coverage) if the employer contribution is less than 100% of the premium for dependents. If the employer contributes 100% of the premium for dependents, 100% of eligible dependents must enroll in a company sponsored plan.
5. **Renewal assumes Kaiser Permanente is offered alongside another dental plan:**
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 - ii. Kaiser Permanente has access to employer and employees on the same basis as all other dental plans offered.
 - iii. The employer's contribution formula does not put Kaiser Permanente in a disadvantaged position. Acceptable forms include, but are not limited to, fixed employer dollar or percentage contribution.
 - iv. Kaiser Permanente is not offered alongside plans with pre-existing condition provisions, dental condition exceptions, or waiting periods.
 - v. Eligibility rules such as dependent age limits and waiting periods for new hires are the same for all dental plans.
 - vi. No other plan is allowed preferential treatment that adversely affects Kaiser Permanente.
 - b. Basic dental and optional dental benefits are comparable to other plans being offered.
 - c. Rate ratios and their definitions are uniform across all plans. If this is not the case, Kaiser Permanente must not be put at a disadvantage.
 - d. Kaiser Permanente will not be offered alongside an "age-rated" plan.
 - e. Rates are based on total current enrollment. If membership increases or decreases by more than 10%, Kaiser Permanente reserves the right to re-rate or rescind the quote.
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6. **Product-specific participation requirements:**
 - a. Dental coverage is not allowed on a voluntary basis.
 - b. Employees must live or work in the Kaiser Permanente service area.
 - c. If an "in-area" employee has dependents that live outside the service area, the employee and dependents must be enrolled on the same product.
 - d. If only one Kaiser Permanente plan is offered to employees, the number of employees enrolled on the Kaiser Permanente plan must be the greater of 5 or 5% of all eligible employees.
 - e. If both a Kaiser Permanente HMO and PPO dental plan are offered to employees, a minimum of 15% of all eligible employees must enroll in a Kaiser Permanente dental plan.
 - f. Dental coverage is not offered to retirees.
7. **Renewal requires eligibility for Kaiser Permanente plan based on the following:**
 - a. The employer can not be considered a small group according to state or federal law.
 - b. The employer must have an employer/employee relationship to those offered a Kaiser Permanente plan.
 - c. Eligible employees are defined as active, permanent employees on the employer's payroll working a minimum of 50% of a full-time schedule. Temporary and/or Seasonal employees and independent contractors (e.g. 1099 employees) are not eligible.
 - d. 100% of eligible employees must be covered by Worker's Compensation, where mandated by law.
 - e. The probationary period for new employees is non-discriminatory and reflects no more than a 120-day waiting period.
 - f. It is the employer's responsibility to comply with appropriate COBRA statutes including enrolling eligible COBRA employees into the Kaiser Permanente COBRA plan in compliance with federal law.
8. **Compliance:**
 - a. Kaiser Permanente reserves the right to make any change in the employer group's benefits and/or rates due to changes in state or federal legislation or regulatory action.
9. **The contracting employer must also meet all other group-specific responsibilities and requirements described in your Group Agreement.**

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE:

Construction Observation/Engineering Services
Contract for West Main Re-alignment-OTAK Inc.

Agenda Item: _____

Dept. of Origin: Community Dev/Engineering

For Agenda of: October 1, 2013

PRESENTED BY:

Michael G. Kardas, P.E.
Community Development Director/City Engineer

Cost of Item: \$602,713

City Manager: Steve Taylor

AGENDA ITEM ATTACHMENTS:

Local Agency Agreement

SUMMARY STATEMENT:

The West Main Re-alignment is under construction contract with Rotschy Inc. The project will require full time on-site supervision and construction engineering support at a level beyond current staffing levels. This contract will provide these services throughout the approximate 10 month construction period.

OTAK, Inc. is the project designer and is best positioned to serve as the consultant for this project. The attached agreement amends our existing services agreement with OTAK.

FINANCIAL SUMMARY:

The proposed contract of \$602,713 includes all necessary services and a \$22,192 reserve. The fee was determined assuming the City will provide observation support. The available funding breaks down as follows.

TIB funds	\$3,660,000
WSDOT Quick Response	\$1,140,000
City Utility Contribution	\$ 416,000
Remaining STP(U) Funds	\$ 260,000
Sub-total	\$5,476,000

Construction Contract	\$4,208,000
Construction Services	\$ 602,713
Funds Remaining	\$ 665,287

The remaining funds represent a contingency of approximately 15%.

RECOMMENDED ACTION:

The staff recommend council make a motion to authorize the City Manager to amend the City's agreement with OTAK, Inc. in the amount of \$602,713.



Supplemental Agreement Number <u>5</u>		Organization and Address Otak, Inc. 700 Washington Street, Suite 401 Vancouver, WA 98660	
Original Agreement Number <u>LA 6746</u>		Phone: (360) 737-9613	
Project Number <u>HPP-6736(003)</u>	Execution Date <u>9/1/2009</u>	Completion Date <u>6/1/2015</u>	
Project Title <u>Kelso West Main Street</u>	New Maximum Amount Payable \$ <u>2,037,972.00</u>		
Description of Work Consultant Scope is amended to include construction administration, construction observation, submittal review and development of record drawings.			

The Local Agency of Kelso
desires to supplement the agreement entered into with Otak, Inc.
and executed on 9/1/2009 and identified as Agreement No. LA-6746

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

The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

See Attached Exhibit A-1 for additional scope

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: Completion date is extended to 6/1/2015

III

Section V, PAYMENT, shall be amended as follows:

Increase maximum amount payable by \$602,713, including a Management Reserve amount of \$22,192. New maximum payable shall be \$2,037,972.

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur with this supplement and agree to the changes as stated above, please sign in the appropriate spaces below and return to this office for final action.

By: Tim Kraft, Principal

By: _____

Consultant Signature

Approving Authority Signature

Date

EXHIBIT A-I

SCOPE OF SERVICES CONSTRUCTION ADMINISTRATION AND CONSTRUCTION OBSERVATION SERVICES

City of Kelso, Washington
West Main Street Alignment – Project I
City Project #580504
September 24, 2013

The purpose of the West Main Street Alignment Project is to realign West Main Street between the Allen Street Bridge and Ocean Beach Highway with the goal of stimulating community revitalization in the West Kelso area, reducing congestion between Kelso and Longview in West Kelso, and improving safety and mobility for vehicles, trucks, bicycles, and pedestrians. The scope of work below addresses the construction of the first phase (Project 1) of the project, which will include a full reconstruction of West Main Street from the Allen Street Bridge to 4th Avenue and widening along 1st Avenue, other improvements to ADA ramps, traffic signals, and other items necessary to facilitate safe travel prior to Phase 2 construction. The following scope of work describes the services required to provide construction administration, observation, and documentation for the project, in accordance with the final construction documents prepared by Otak in March 2013.

1.0 PROJECT MANAGEMENT AND COORDINATION

1.1 Coordination with City of Kelso

Otak will coordinate with City of Kelso Engineering staff on a regular basis to keep the City's project manager informed about project issues and schedule. A kickoff/coordination meeting will be conducted with Otak's project team and City staff to establish procedures/protocols and communication requirements for the project. Otak will assist in scheduling project related meetings, reviews, and other coordination activities needed to keep the project moving ahead.

Deliverables:

- On-going coordination and communication as needed to appropriately manage the project (no tangible deliverables for this task).

1.2 Project Monitoring and Reporting

Project monitoring will include the coordination of design and construction services team members, project scheduling, and the preparation of a monthly progress report and a

monthly invoice statement.

Deliverables:

- Monthly project status report – Submitted to City with the monthly invoice.

1.3 Meetings

Otak will arrange, organize, and attend meetings, including a kick off meeting with the City, preconstruction conference with City and contractor, weekly project progress meetings, and utility coordination meetings. Other specific pre-work meetings may include the following (based on need during construction or contractor request): traffic control/staging, construction surveying, building demolition, HMAC paving, and hazardous materials handling (if applicable). Otak will issue meeting notes for each meeting. Generally, Otak's Construction Project Manager and Field Representative will be in attendance. Progress meetings will be used to promote effective communication between the City, Otak, Contractor and other project stakeholders.

Deliverables:

- Meeting agendas and meeting notes (within three days of the meeting)

2.0 PUBLIC INVOLVEMENT

2.1 Weekly Press Releases

Otak will assemble the necessary information and draft weekly press releases during construction to assist the City in an effort to keep the public informed on the project's progress. Weekly press releases will be concise summaries of construction activity, look-ahead schedule updates, and potential disruptions to business and traffic. Otak will submit press releases on a weekly basis to the City for distribution.

Deliverables:

- Press releases in MS Word format (submitted weekly)

3.0 CONSTRUCTION ADMINISTRATION AND ENGINEERING

3.1 Project Setup

Otak will prepare the quantity paybook, prepare the spreadsheets for the monthly progress payments to the Contractor, Request for Approval of Materials (RAM) and Record of Material (ROM) forms, and prepare templates for other required documentation forms. Otak staff will work with the City to develop a list of deliverables and approximate timeframe for submitting information to the City (ie. throughout the duration of the project, monthly, at project completion, etc.).

Deliverables:

- Draft list of Deliverables to City with approximate time frame(s) for submittal
- Final list of Deliverables to City once Otak/City meet to discuss.

3.2 Material Submittals

Otak will review material submittals, construction sequence schedules, shop drawings, and other items required from the Contractor. Otak will maintain a documented record of all material submittals in accordance with the Record of Materials. Otak will log in, review, track and return each submittal within the timeframe established in the Standard Specifications. Otak will review the following submittals, including but not limited to: traffic control plan, staging plans, erosion and pollution control plans, quality control plan, construction schedules, drainage structure shop drawings, demolition plans, HMAC and concrete mix designs, retaining wall calculations and drawings, lighting pole and traffic signal pole submittals, submittals for traffic signal or electrical equipment and materials, landscaping and irrigation submittals, and others required by construction contract specifications.

Deliverables:

- Material and submittal log (available for review at Otak office)

3.3 Construction Administration and Engineering

Otak's Construction Project Manager will be the direct point of contact for the City and construction contractor and will coordinate with all project stakeholders. Otak's Construction Project Manager will coordinate with the Field Representative throughout the duration of the project, keep a record of decisions made, review and recommend solutions to change order requests and disputes with the Contractor, and review progress and final payment applications. Otak will review and track all Contractor labor compliance documentation, including subcontracts, certified payroll, utilization reports and subcontractor paid reports. Otak will draft construction contract change orders for City review and approval.

Deliverables:

- Record of decisions made (available for review at Otak office)
- Record of Contractor labor compliance, including subcontracts and certified payroll documentation (available for review at Otak office)
- Progress estimates (monthly)
- Draft construction contract change orders
- Final payment (at project close-out)

3.4 Response to Questions/Field Changes

Otak will respond to requests for information by the Contractor and provide supplemental information as needed to maintain the progress of the work. If field adjustments are required

as a result of a change in conditions or a desired change by the City, Otak will prepare necessary change order documents (per 2.3) and plan revisions.

Deliverables:

- Log of RFI responses and field changes (available for review at Otak office)

4.0 CONSTRUCTION OBSERVATION

4.1 Field Observation

Otak will provide a Field Representative to observe the construction work. The Field Representative will typically be the first point of contact, and will be readily accessible, for the business/property owners, general public, and others affected by the project. The Field Representative will observe construction, attend the pre-construction conference and progress meetings, complete daily inspection reports and weekly statements of working days, measure quantities and keep quantity paybooks, and review quantities with the Contractor prior to submittal to the City for payment. The Field Representative will maintain a full-size set of plans, noting changes to the work, to be used as the basis for construction record drawings, along with the Contractor's as-built records. The Field Representative will be on site when the Contractor is working. For budgeting purposes, Field Representative time has been based on an assumed 44 week construction schedule working 45 hours per week.

Deliverables:

- Daily progress reports (submitted weekly)
- Weekly statement of working days (submitted monthly)
- Quantity paybooks (submitted at project closeout)
- Monthly quantity spreadsheets (submitted monthly with progress estimate)

4.2 Material Testing

Otak will provide material testing in conformance with City of Kelso and WSDOT requirements. Prior to construction, Otak will meet with the City to determine the appropriate testing frequency for applicable materials and develop a tracking spreadsheet to ensure all testing occurs as required.

Assumptions: The proposed scope and fee for this task is based on the following material testing frequencies:

- Trench Work: one proctor and five trips for compaction testing.
- Base Aggregate: nine sieve analyses, nine sand equivalent tests, nine fractured face tests, and ten trips for compaction testing.

Scope of Services

Continued

- Asphalt: six uncompacted voids tests, six sand equivalent tests, six fractured face tests, eleven trips for compaction testing, nine incinerator/gradation tests, nine gyratory specimens, nine bulk specific gravity tests, and eleven Rice tests.
- Concrete Testing: five trips for field testing concrete, five sets of four cylinders to test for compressive strength, and five trips for cylinder pick up at site.

Deliverables:

- Copies of material testing results (within 48 hours after results are available)

4.3 Site Visits

Otak's Construction Project Manager and other construction administration staff will visit the site periodically to review construction progress and verify compliance with the project plans and specifications. It is anticipated that site visits will be combined with bi-weekly meetings whenever possible.

4.4 Final Inspections

The Construction Project Manager, Field Representative, and Design Project Manager will inspect the project and compile a punch list upon substantial completion. After the Contractor has completed all punch list items, the Construction Project Manager, Field Representative, and Design Project Manager will again inspect the project and establish the physical completion date.

Deliverables:

- Initial punch list for City review and comment
- Final punch list incorporating all comments
- Notification of punch list completion and physical completion date

5.0 PROJECT CLOSEOUT

5.1 Closeout Documentation

Otak will compile project closeout documentation and coordinate with the Contractor and the City to obtain the required documents. Otak will assemble project documentation and deliver to the City at project completion.

Deliverables:

- Project quality and quantity documentation

5.2 As Constructed Record Drawings

The Final Plans will be revised to conform to construction record drawings from information supplied by the Contractor and Field Representative. Two hardcopy sets of

Scope of Services

Continued

"Construction Record" plans (paper format) and a CD with an electronic copy of the plans (AutoCAD .dwg file format) will be submitted to the City.

Deliverables:

- Hardcopy and electronic As-Builts

6.0 MANAGEMENT RESERVE – CONTINGENCY TASK

6.1 Management Reserve for Additional Effort – Contingency Task

Otak will provide additional effort related to construction management and inspection on an as-needed basis in the event the construction contractor's schedule requires extra time on the project. This task shall only be used if authorized by the City. Budget for this task is **\$22,192**.

EXPENSES

Expenses have been estimated in the budget at approximately 5% of the labor cost, but will be invoiced based on actual costs incurred, including materials testing services.

ASSUMPTIONS

- The scope and budget have been prepared with the assumption that actual construction of the project will begin in October 2013 and take approximately ten months (44 weeks) to complete.
- The City will prepare and coordinate execution of the Construction Contract. The City will be responsible for completing proper documentation related to project funding.
- If utility potholing is required, it will be completed by others. Otak will assist with coordinating locations.
- Field Representative hours are based on 45 hours/week for 44 weeks

Exhibit E-1

**Otak, Inc.
Consultant Fee Determination -- Summary Sheet**

Project: City of Kelso West Main Street Realignment

Office Staff

Direct Salary Cost (DSC):

<u>Staff Name</u>	<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	=	<u>Cost</u>
	CE VII	620	X	\$45.14	=	\$27,987
	CE VII	256	X	\$45.14	=	\$11,556
	CE III	188		\$33.91	=	\$6,375
	CE III	946	X	\$33.91	=	\$32,079
	Engineering Designer II	328		\$25.98	=	\$8,521
	Project Admin Asst	242	X	\$22.74	=	\$5,503
				Total DSC	=	\$92,021

Overhead (OH Cost -- Including Salary Additives):

OH Rate x DSC of	175.00%	X	\$92,021	=	<u>\$161,037</u>
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Fee

Fee Rate x DSC of	30%	X	\$92,021	=	<u>\$27,606</u>
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Field Staff

Direct Salary Cost (DSC):

<u>Staff Name</u>	<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	=	<u>Cost</u>
	Field Representative	2200	X	\$40.00	=	\$88,000
				Total DSC	=	\$88,000

Overhead (OH Cost -- Including Salary Additives):

OH Rate x DSC of	122.18%	X	\$88,000	=	<u>\$107,518</u>
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Fee

Fee Rate x DSC of	30%	X	\$88,000	=	<u>\$26,400</u>
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Exhibit E-1

**Otak, Inc.
Consultant Fee Determination -- Summary Sheet**

Project: City of Kelso West Main Street Realignment

Reimbursables:

Materials Testing	\$32,380
Per Diem	\$15,000
Mileage	\$10,000

Total Reimbursables = \$57,380

Subconsultant Costs

\$42,750

Grand Total

\$602,713

Prepared by: Ian Machan

Date: 9/26/2013

OTAK, Inc.
Overhead Schedule
01/01/11-12/31/11

Account Title	Proposed Overhead Costs	Audit Adjustments	Accepted Overhead Costs
Direct Labor Base			
502.00 Direct Cost Payroll	\$ 7,207,781.46		\$ 7,207,781.46
Total Direct Labor Base	\$ 7,207,781.46	\$ -	\$ 7,207,781.46
Overhead Costs			
602.00 Indirect Cost Payroll	\$ 3,713,757.00	\$ (51,513.00)	\$ 3,662,244.00
602.01 Indirect Cost Payroll-Prem Tim	\$ 193,027.00	\$ -	\$ 193,027.00
602.99 Indret Cst Prrll - Mrk Lbr Unl	\$ -	\$ -	\$ -
604.00 Vacation & Comp Salaries	\$ 763,091.34	\$ -	\$ 763,091.34
604.01 Sabbatical Leave Expense	\$ 124,136.98	\$ -	\$ 124,136.98
606.00 Auto Allowance	\$ 4,760.00	\$ -	\$ 4,760.00
608.00 Payroll Taxes	\$ 14,956.67	\$ -	\$ 14,956.67
608.01 Payroll Taxes-FICA ER Expense	\$ 899,623.42	\$ -	\$ 899,623.42
608.02 Payroll Taxes-SUI ER Expense	\$ 228,623.28	\$ -	\$ 228,623.28
608.03 Payroll Taxes-WBFT ER Expense	\$ 3,161.11	\$ -	\$ 3,161.11
608.04 Payroll Taxes-TriMet ER Expens	\$ 42,110.95	\$ -	\$ 42,110.95
610.00 Continuing Education	\$ 4,881.14	\$ -	\$ 4,881.14
612.00 Employee Housing	\$ 10,850.00	\$ -	\$ 10,850.00
614.00 Employee Recruiting	\$ 7,235.99	\$ -	\$ 7,235.99
616.00 Employee Relocation Expenses	\$ 294.00	\$ -	\$ 294.00
620.00 Flex/401(k) Administr Exp	\$ 458.35	\$ -	\$ 458.35
622.00 Health Insurance Claims	\$ 1,782,760.09	\$ -	\$ 1,782,760.09
624.00 Health Insurance-Employees	\$ (100,804.04)	\$ -	\$ (100,804.04)
626.00 Life & LTD Insurance-Employees	\$ 68,233.33	\$ -	\$ 68,233.33
628.00 Prof. Dues, Publictns, Sbscrpt.	\$ 79,315.90	\$ -	\$ 79,315.90
630.00 Professional Fees & Licenses	\$ 15,402.94	\$ -	\$ 15,402.94
650.00 Travel-Education	\$ 22,896.48	\$ (4,516.00)	\$ 18,380.48
695.00 Bonuses	\$ 7,847.99	\$ -	\$ 7,847.99
695.01 Bonuses-Safety	\$ 4,588.61	\$ -	\$ 4,588.61
695.04 Severance Pay	\$ 141,986.04	\$ (91,922.04)	\$ 50,064.00
696.00 Non-Employee Compensation	\$ 46,755.00	\$ (46,755.00)	\$ -
697.00 Deferred Compensation	\$ 94.03	\$ -	\$ 94.03
702.00 Bank Charges & Fees	\$ 23,478.68	\$ -	\$ 23,478.68
704.00 Business Ds, Licens & Membrshps	\$ 39,999.14	\$ -	\$ 39,999.14
706.00 Business Meals (Inside)	\$ 3,299.13	\$ (343.00)	\$ 2,956.13
706.01 Business Meeting Exp-Offsite	\$ -	\$ (532.00)	\$ (532.00)
708.00 Business Meals-Direct Sales	\$ 3,468.99	\$ (1,115.00)	\$ 2,353.99
710.00 Business Subscriptns & Pbletns	\$ 13,417.07	\$ -	\$ 13,417.07
712.00 Contributions	\$ -	\$ -	\$ -
716.00 Equipment Rental	\$ 114,499.67	\$ -	\$ 114,499.67
720.00 Insurance-Business	\$ 487,285.70	\$ -	\$ 487,285.70
722.00 Janitorial Services	\$ 63,661.05	\$ -	\$ 63,661.05
726.00 Maintenance & Repairs	\$ 99,487.18	\$ -	\$ 99,487.18
728.00 Miscellaneous	\$ 117,554.00	\$ (90,306.00)	\$ 27,248.00
729.00 Moving Expense	\$ 1,879.35	\$ -	\$ 1,879.35
730.00 Opertng and Genrl Suppls Expns	\$ 105,119.49	\$ -	\$ 105,119.49
732.00 Office Rent	\$ 2,001,732.15	\$ (439,478.00)	\$ 1,562,254.15
732.01 Offe Rnt-Comm Ar Mnt (CAM) Chg	\$ 204,162.23	\$ -	\$ 204,162.23
732.02 Office Rent-Utilities Pd Lessr	\$ 79,624.32	\$ -	\$ 79,624.32
732.04 Rent - SubLease Income	\$ (350.00)	\$ -	\$ (350.00)
734.00 Office Functions	\$ -	\$ -	\$ -
734.01 Discretionry Recgntn Pl Dstrbt	\$ -	\$ -	\$ -
736.00 Postage & Freight	\$ 26,219.36	\$ -	\$ 26,219.36
738.00 Printing & Graphics	\$ 5,463.52	\$ -	\$ 5,463.52
740.00 Professnal/Lgl & Acctng Srvc	\$ 780,187.41	\$ (202,223.00)	\$ 577,964.41

OTAK, Inc.
Overhead Schedule
01/01/11-12/31/11

Account Title	Proposed Overhead Costs	Audit Adjustments	Accepted Overhead Costs
740.01 Less: Prof & Legal Capitalized	\$ (300,700.00)	\$ -	\$ (300,700.00)
742.00 Professional Services-Other	\$ 334,675.80	\$ -	\$ 334,675.80
744.00 Protective Services	\$ 10,076.36	\$ -	\$ 10,076.36
746.00 Telephone & Alarm Systems	\$ 281,627.28	\$ -	\$ 281,627.28
748.00 Temporary Clerical Services	\$ 87,824.46	\$ -	\$ 87,824.46
750.00 Travel-Office & Direct Sales	\$ 104,190.12	\$ (35,898.00)	\$ 68,292.12
750.01 Travel-Auto Rental	\$ 9,541.13	\$ (1,545.00)	\$ 7,996.13
750.02 Travel-Mileage Reimbursed	\$ 23,983.13	\$ (4,922.00)	\$ 19,061.13
756.00 Utilities	\$ 15,615.11	\$ -	\$ 15,615.11
758.00 Vehicle Expenses	\$ 85,587.98	\$ -	\$ 85,587.98
768.00 Computer Supplies	\$ 68,600.05	\$ -	\$ 68,600.05
770.00 Internet Services Expense	\$ 12,623.83	\$ -	\$ 12,623.83
772.00 Outside Computer Services	\$ 50,626.18	\$ -	\$ 50,626.18
774.00 Software Program Expenses	\$ 168,548.38	\$ -	\$ 168,548.38
776.00 Equipment Lease	\$ 124,072.17	\$ -	\$ 124,072.17
778.00 Vehicle Leases	\$ 44,441.83	\$ (8,050.00)	\$ 36,391.83
779.00 Amortization	\$ -	\$ -	\$ -
792.00 Depreciation	\$ 329,102.87	\$ 20,300.49	\$ 349,403.36
794.00 Other Taxes	\$ 283,800.49	\$ -	\$ 283,800.49
796.00 Sales Tax Paid	\$ 26,074.22	\$ -	\$ 26,074.22
906.00 Gain/Loss on Asset Disposal	\$ (30,301.01)	\$ -	\$ (30,301.01)
	<u>\$ 13,980,242.42</u>	<u>\$ (958,817.55)</u>	<u>\$ 13,021,424.87</u>

Overhead Rate	193.96%	180.66%
		0.32%
		180.97%

Note: Otak is capping the overhead factor at 175%

AUDIT SERVICES

Oregon Department of Transportation

December 27, 2012

The Board of Directors and Stockholders
OTAK, Inc.

Re: OTAK, Inc. Schedule of Indirect Cost Rate
Fiscal Year Ended December 31, 2011

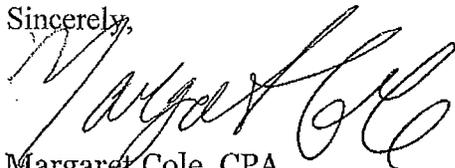
We have performed a cognizant review of OTAK, Inc.'s documentation and the working papers of your independent CPA firm, James C. Gill, CPA, of their audit of the Schedule of Indirect Cost Rate for OTAK, Inc.'s Fiscal Year Ended December 31, 2011 in accordance with our role as Cognizant Agency as defined in 23 U.S.C. 112(b)(2)(c) and 23 CFR 172.3 and 172.7.

We were provided with a copy of independent auditor's report dated October 23, 2012, copies of their working papers and additional documentation from OTAK, Inc.

Based on our review, we accepted the audited Schedule of Indirect Cost Rate. This letter of concurrence establishes OTAK, Inc.'s Schedule of Indirect Cost Rate for the fiscal year ended December 31, 2011 at 180.66% of direct labor and a Facilities Capital Cost of Money factor of 0.32% of direct labor.

A copy of this letter will be forwarded to the appropriate ODOT contracting offices. If you or any representative of OTAK, Inc. has any questions, please contact me at (503) 986-3213 or Inna Cutting at (503) 986-3174.

Sincerely,



Margaret Cole, CPA
External Audit Services Manager
Oregon Department of Transportation

cc: Chris Rayasam, CFO, OTAK, Inc.
James C. Gill, CPA

Exhibit G-1
Subconsultant Fee Determination
Summary Sheet

Project: City of Kelso West Main Street Alignment
 Subconsultant: DKS Associates, Inc.

Direct Salary Cost (DSC):

<u>Classification</u>	<u>Man Hours</u>			<u>Rate</u>	=	<u>Cost</u>
		Total				
Grade 31	3	3	X	\$61.85	=	\$186
Grade 20	54	54	X	\$43.00	=	\$2,322
Grade 12	92	92	X	\$30.75	=	\$2,829
Grade 9	40	40	X	\$25.40	=	\$1,016
Tech L	10	10	X	\$24.75	=	\$248
				Total DSC	=	\$6,600

Overhead (OH Cost -- Including Salary Additives):

OH Rate x DSC of 176.03% X \$6,600.05 = \$11,618

Fixed Fee (FF)

FF Rate x DSC of 30% X \$6,600.05 = \$1,980

Reimbursables:

Traffic Counts	\$ -		
Mileage	\$ 500		
Copies	\$ 75		
Misc.	\$ 30		
		Total Reimbursables	= <u>\$ 605</u>

Grand Total

\$20,803

Prepared By: Peter L. Coffey

Date: April 25, 2013

Exhibit G-1

Subconsultant Fee Determination Summary Sheet

Project: City of Kelso West Main Street Alignment
 Subconsultant: Apex Companies

Direct Salary Cost (DSC):

<u>Classification</u>	<u>Man Hours</u>			<u>Rate</u>	=	<u>Cost</u>
		Total				
Principal	34	34	X	\$72.10	=	\$2,451
Senior Project	32	32	X	\$38.17	=	\$1,221
Admin Assistant	8	8	X	\$14.87	=	\$119
			X		=	\$0
			X		=	\$0
Total DSC					=	\$3,792

Overhead (OH Cost -- Including Salary Additives):

OH Rate x DSC of 149.10% X \$3,791.80 = \$5,654

Fixed Fee (FF)

FF Rate x DSC of 30% X \$3,791.80 = \$1,138

Reimbursables:

none

Total Reimbursables = \$ -

Grand Total

\$10,583

Prepared By: Stu Albright

Date: September 26, 2013

Exhibit G-2
Consultant Fee Determination - Summary Sheet
(Specific Rates of Pay)
Fee Schedule
Apex Companies

Name	Maximum Hourly Rate	Overhead @ 149.1%	Profit @ 30%	Rate Per Hour
Principal	\$72.10	\$107.50	\$21.63	\$201.23
Senior Associate	\$53.99	\$80.50	\$16.20	\$150.69
Associate	\$45.76	\$68.23	\$13.73	\$127.72
Senior Project	\$38.17	\$56.91	\$11.45	\$106.53
Project	\$31.93	\$47.61	\$9.58	\$89.12
Senior Staff	\$27.89	\$41.58	\$8.37	\$77.84
Staff	\$26.48	\$39.48	\$7.94	\$73.91
Senior Drafter	\$29.97	\$44.69	\$8.99	\$83.65
Administrative Assistant	\$14.87	\$22.17	\$4.46	\$41.50

Apex Companies, LLC Oregon
 Calculation of Overhead Rate
 For the Fiscal Year Ending December 31, 2012

Description	Financial Statement Expense	Unallowable Expense	*Ref	Total Proposed	Percentage of Direct Labor
Direct Labor	\$1,259,672			\$1,259,672	
Fringe Benefits:					
Payroll taxes:					
State unemployment	\$36,878			\$36,878	2.9%
FICA/Medicare	\$147,832			\$147,832	11.7%
FUTA	\$2,175			\$2,175	0.2%
Employee Benefits	\$28,582			\$28,582	2.3%
Holiday, Vacation, Sick Leave	\$226,517			\$226,517	18.0%
Health, Dental, Life & disability Insurance	\$122,991			\$122,991	9.8%
401k Employer Contribution	\$38,555			\$38,555	3.1%
Total Fringe Benefits	\$603,530			\$603,530	47.9%
General Overhead					
Indirect Labor - Office services/Corporate Mgt	\$626,774			\$626,774	49.8%
Indirect Labor - Direct Selling & Proposals	\$668			\$668	0.1%
Indirect Labor - Marketing Labor	\$113,152	(\$113,152)	1	\$0	0.0%
Indirect Temporary Staffing	\$9,287			\$9,287	0.7%
Equipment Maintenance	\$12,949			\$12,949	1.0%
Equipment Rental	\$28,555			\$28,555	2.3%
Legal & Accounting	\$16,063			\$16,063	1.3%
Telephone & Communications	\$31,942			\$31,942	2.5%
Postage and Shipping	\$12,683			\$12,683	1.0%
Office Expense & Materials	\$21,841			\$21,841	1.7%
Recruiting Expenses	\$3,413			\$3,413	0.3%
Unreimbursed Field Supplies	\$23,304			\$23,304	1.9%
Rent & Occupancy Costs	\$174,786			\$174,786	13.9%
Other Taxes & Licenses	\$2,581			\$2,581	0.2%
Insurance - General/Professional Liability	\$43,702			\$43,702	3.5%
Unreimbursed Travel & Subsistence	\$48,195			\$48,195	3.8%
Prof. Development, Society Dues, Prof. Registration	\$13,297			\$13,297	1.1%
Depreciation	\$46,047			\$46,047	3.7%
Health and Safety Expenses	\$9,044			\$9,044	0.7%
Advertising	\$0	\$0	2	\$0	0.0%
Marketing - General	\$5,212	(\$5,212)	3	\$0	0.0%
Business Entertainment	\$812	(\$812)	3	\$0	0.0%
Incentive Comp/Bonuses	\$149,289			\$149,289	11.9%
Charitable Contributions	\$13,206	(\$13,206)	4	\$0	0.0%
Interest	\$59,585	(\$59,585)	5	\$0	0.0%
Bad Debt	\$3,710	(\$3,710)	12	\$0	0.0%
Total General Overhead	\$1,470,097	(\$195,678)		\$1,274,419	101.2%
Total Fringe Benefits and General Overhead	\$2,073,628	(\$195,678)	\$0	\$1,877,949	149.1%
Total Fringe Benefits and General Overhead Rate Percent of Direct Labor	164.6%			<u>149.1%</u>	

Unallowable References	FAR Regulation
1 Selling Costs (Marketing Labor)	31.205-19
2 Advertising	31.205-1
3 Marketing Supplies	31.205-38
4 Charitable Contributions (Contributions or Donations)	31.205-8
5 Interest	31.205-20
6 Bad Debt	31.205-3

Exhibit G-1
Subconsultant Fee Determination
Summary Sheet

Project: City of Kelso West Main Street Alignment
 Subconsultant: Exceltech

Direct Salary Cost (DSC):

<u>Classification</u>	<u>Man Hours</u>			<u>Rate</u>	=	<u>Cost</u>
		Total				
Project Manager	8	8	X	\$48.56	=	\$388
Office Engineer	84	84	X	\$36.41	=	\$3,058
			X		=	\$0
			X		=	\$0
			X		=	\$0
Total DSC					=	\$3,447

Overhead (OH Cost -- Including Salary Additives):

OH Rate x DSC of 183.52% X \$3,446.92 = \$6,326

Fixed Fee (FF)

FF Rate x DSC of 30% X \$3,446.92 = \$1,034

Reimbursables:

Mileage	\$ 500.00		
Copies	\$ 47.00		
Misc.			
		Total Reimbursables	= <u>\$ 547</u>

Grand Total

\$11,354

Prepared By: Mark Warren

Date: April 25, 2013

Exhibit F - Overhead Cost



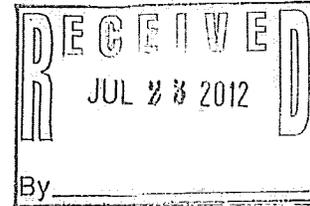
**Washington State
Department of Transportation**
Paula J. Hammond, P.E.
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300

360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

July 11, 2012

Michelle Rhodes, Finance Manager
Exeltech Consulting, Inc.
8729 Commerce Place Drive
Lacey, WA 98516-1363



Re: Exeltech Consulting, Inc., Overhead Schedule
Fiscal Year End December 31, 2011

Dear Ms. Rhodes:

We have completed a desk review of your overhead schedule for the above referenced fiscal year. Our review included the documentation provided by Exeltech Consulting, Inc.

The reviewed data included, but was not limited to; the schedule of the indirect cost rate, a description of the company, basis of accounting and description of Exeltech Consulting, Inc. accounting system, and the basis of indirect costs.

Based on our work, we are issuing this letter of review establishing Exeltech Consulting, Inc. overhead rate for fiscal year ending December 31, 2011, at 183.52% (rate includes Facilities Cost of Capital) of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

Please check with the WSDOT Consultant Services Office (HQ) and/or the WSDOT Area Consultant Liaison to determine when this reviewed rate will be applicable to your WSDOT agreement(s).

Also, remember that when you provide next year's overhead schedule to our office, you will also need to submit **either** your internally prepared *Compensation Analysis* for our review, or use the *National Compensation Matrix* (NCM) format to prepare your alternate analysis and we will review that. The NCM is a tool that establishes compensation amounts presumed reasonable for certain executive positions. The *Compensation Analysis* and NCM are described further in the AASHTO Audit Guide, Chapter 7. We will need your *Compensation Analysis*, or alternative analysis based on use of the NCM, in order to complete our review of your overhead schedule.

Ms. Rhodes
July 11, 2012
Page 2

If you, or any representative of Exeltech Consulting, Inc. have any questions, please contact Martha Roach, Jeri Sivertson or Steve McKerney at (360) 705-7003.

Sincerely,

A handwritten signature in cursive script that reads "Martha Roach".

Martha S. Roach
Agreement Compliance Audit Manager

MR:ds
Enclosures

cc: Steve McKerney, Director of Internal Audit
Larry Schofield, MS 47323
File

Exhibit F - Overhead Cost
Exeltech Consulting Inc.
Overhead Schedule
Fiscal Year Ended December 31, 2011

Description	General Ledger	Exeltech Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
Total Direct Labor Base	<u>\$1,059,211</u>				<u>\$1,059,211</u>	100.00%
Fringe Benefits						
Payroll Taxes	\$234,623	(\$9,276)		I	\$225,347	21.28%
Vacation/Holiday/Sick Leave	213,448				213,448	20.15%
Incentive Compensation	0				0	0.00%
Bonus	2,000		(2,000)	V	0	0.00%
Health & Dental Insurance - Employees	84,660				84,660	7.99%
Insurance - Keyman	674	(674)		H	0	0.00%
Retirement	37,810				37,810	3.57%
Fringe Benefit Adjustment			(25,782)	W	(25,782)	-2.43%
Total Fringe Benefits	<u>\$573,215</u>	<u>(\$9,950)</u>	<u>(\$27,782)</u>		<u>\$535,483</u>	50.55%
General Overhead						
Auto expenses& parking	\$36,258		(\$1,635)	S,T	\$34,623	3.27%
Advertising	2,732	(2,732)		D	-	0.00%
Bad Debt	11,323	(11,323)		F	-	0.00%
Bank Service Charges	3,100		(3,100)	Q	-	0.00%
Charitable Donations	3,650	(3,650)		A	-	0.00%
Computer and IT Maintenance	5,711				5,711	0.54%
Depreciation	81,673				81,673	7.71%
Dues, Subscriptions & Books	33,468				33,468	3.16%
Education	7,007				7,007	0.66%
Equipment Lease	17,735				17,735	1.67%
Insurance	95,212	(9,956)		O	85,257	8.05%
Interest/Financing Cost	7,636	(7,636)		B	-	0.00%
Licenses & Permits	13,243				13,243	1.25%
Business Meals	10,583	(10,583)		C	-	0.00%
Office Supplies	11,746	(103)		I	11,643	1.10%
Penalties	162	(162)		P	-	0.00%
Personnel Recruitment	5,625				5,625	0.53%
Postage & Delivery	4,955				4,955	0.47%
Printing & Reproduction	18,911				18,911	1.79%
Professional Fees	35,406	(18,876)	(250)	G,R	16,280	1.54%
Rent	324,276	(52,303)		K	271,974	25.68%
Repairs & maintenance	7,911				7,911	0.75%
Software Expenses	518				518	0.05%
Coffee and Kitchen supplies	4,073				4,073	0.38%
Staff Function & Entertainment	2,656	(2,656)		J	-	0.00%
Supplies - Operating	942				942	0.09%
Taxes - City & State Business (Excise&UseTax)	63,135				63,135	5.96%
Taxes Personal Property	3,253				3,253	0.31%
Telephone	57,448				57,448	5.42%
Travel/ Mileage, Lodging, Transportation	18,195	(1,783)		L	16,412	1.55%

Exhibit F - Overhead Cost
Exeltech Consulting Inc.
Overhead Schedule
Fiscal Year Ended December 31, 2011

Description	General Ledger	Exeltech Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
State Taxes - CA and OR	2,060				2,060	0.19%
Political Contributions	1,958	(1,958)		A	-	0.00%
Gifts/Flowers	2,335	(2,335)		E	-	0.00%
Wages, Employees-Indirect	914,038	(121,249)	(301,803)	M,U,X	490,986	46.35%
Bid & Proposal Labor			144,024	U	144,024	13.60%
Unallowable FAR	407	(407)		N	-	0.00%
Total General Overhead	<u>\$1,809,340</u>	<u>(\$247,711)</u>	<u>(\$162,763)</u>		<u>\$1,398,865</u>	<u>132.07%</u>
Total Overhead Expenses	<u>\$2,382,555</u>	<u>(\$257,661)</u>	<u>(\$190,545)</u>		<u>\$1,934,349</u>	<u>182.62%</u>
Overhead Rate (less FCC)	224.94%	200.61%			<u>182.62%</u>	
Facilities Cost of Capital		\$9,490			<u>\$9,490</u>	0.90%
					<u>\$1,943,839</u>	
Overhead Rate (includes FCC)					<u>183.52%</u>	

Exeltech, Inc. - Reviewed & Accepted 7/1/2012 AW
"Overhead Rate still subject to WSDOT Audit"

References

Exeltech, Inc. Adjustments:

- A Contributions unallowable per 48 CFR 31.205-8.
- B Interest unallowable per 48 CFR 31.205-20.
- C Local meals & Business meals unallowable per 48 CFR 31.205-14, WSDOT Accounting Manual, Chapter 10
- D Advertising cost not allowable per 48 CFR 31.205-1
- E Gifts to clients unallowable per 48 CFR 31.205-14.
- F Bad Debt unallowable per 48 CFR 31.205-3
- G Federal tax return preparation fees over \$250 unallowable per 48 CFR 31.205-41(b)(1), 48 CFR 31.201-6(d), and WSDOT Overhead Policy.(\$7,488.00) Legal fees for litigation (\$11,388.06) unallowable per 48 31.205-47(f)(5)
- H Key man insurance unallowable 48 CFR 31.205-19 (e)(2)(v)
- I Promotional expenses not allowable per 48 CFR 31.205-1
- J Summer picnic (\$1,442.56) and Seattle Mariner tickets (\$1,213.60) unallowable entertainment per 48 CFR 31.205-14
- K Common Control adjustment per 48 CFR 31.205-36(b)(3)
- L Travel Lodging rates over per diem rates not allowed (\$356) Travel cost for Promotional Marketing (1427.34)
- M Wages for promotional marketing not allowed (\$121,249.02) per 48 CFR 31.205-1
- N Alcohol unallowable per 48 CFR 31.205-51
- O Owners Life Insurance unallowable per 48 CFR 31.205-6(m)(1)
- P Fines and Penalties unallowable per 48 CFR 31.205-15(a)

Exhibit F - Overhead Cost
Exeltech Consulting Inc.
Overhead Schedule
Fiscal Year Ended December 31, 2011

Description	General Ledger	Exeltech Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
WSDOT Adjustments:						
Q Bank Interest and Fees unallowable per 48 CFR 31.205-20 and 31.205-15.						
R Income Tax Preparation fee unallowable in full per 48 CFR 31.205-41(b) and 31.201-6(d). (S Corporation)						
S Parking Allowance in amount of \$600 paid to only one employee unallowable per 48 CFR 31.201-4 and 31.205-6(m).						
T Personal use of company vehicle unallowable per 48 CFR 31.205-6(m)(2). Amount provided by firm (\$1,034.50)						
U Reclassified Bid & Proposal Labor from Indirect Labor to include it as its own line item per 48 CFR 31.205-18, CAS 420 and 2010 AASHTO Audit Guide Ch. 6.3.						
V Bonus payments not performance based unallowable per 48 CFR 31.205-6 and 2010 AASHTO Guide, Section 7.12 C						
W Adjustment for fringe benefit directly associated cost to unallowable promotional marketing labor (advertising and public relations labor) unallowable per 48 CFR 31.201-6 and 31.201-6. See worksheet for adjustment calculation.						
X Removed \$157,778.60 to bring indirect labor to a reasonable amount per 48 CFR 31.201-3 and 2010 AASHTO Audit Guide Ch. 5.4 (F)(5). Before adjustments, the indirect labor was 86.29% of direct labor. This is very high and not in line with industry standards. This adjustment was provided by the firm. After all adjustments, total indirect labor (including bid & proposal labor) is 59.95% of direct labor.						

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE: An Ordinance of the City of Kelso repealing Ordinance 3573 codified at KMC 12.24 Parades and adopting a new KMC 12.24 Special Events to replace the repealed chapter.

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: October 1, 2013 _____

Originator: _____

PRESENTED BY:

Steve Taylor

City Attorney: Janean Parker

City Manager: Steve Taylor

Agenda Item Attachments:

Ordinance

Exhibit A – Chapter 12.24 Special Events

Exhibit B – Redlined Version Chapter 12.24 Special Events

SUMMARY STATEMENT:

In 2005, Ordinance 3573 was adopted to address the use of the public right-of-way for special events but was limited to only addressing events that could be classified as a parade. The proposed code changes are intended to expand the scope of the code provisions to address other uses of the right-of-way, clarify and consolidate the permitting process for these events, protect the public's investment in infrastructure and facilities, and mitigate other potential risks associated with the assemblage of large groups.

After receiving Council's feedback regarding the proposed changes several modifications were made to the language contained in this chapter. Section 12.24.010 now includes a clearer explanation of what "Special Event" means and 12.24.035 contains a more exhaustive list of the types of events that may qualify for a permit exemption. The existing chapter 12.24 Parades, as well as several iterations of the proposed changes, are included in previous council packets for your reference.

RECOMMENDED ACTION:

Make a motion to approve Ordinance amending KMC Chapter 12.24 on first reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KELSO REPEALING ORDINANCE 3573 CODIFIED AT KMC 12.24 PARADES AND ADOPTING A NEW KMC 12.24 SPECIAL EVENTS TO REPLACE THE REPEALED CHAPTER

WHEREAS, Ordinance 3573 was adopted in 2005 to address the use of the public right-of-way for special events limited to the definition of parade; and

WHEREAS, the City wishes to expand the scope of the code provisions to encompass other uses of the right-of-way; and

WHEREAS, the City wishes to clarify and consolidate the permitting process for the use of the right-of-way for special events; and

WHEREAS, the City Council wishes to update the City’s municipal code to better serve the needs of the community, protect the public’s investment in infrastructure and facilities, and mitigate potential risks associated with the assemblage of large groups by adopting policies and procedures that address a comprehensive list of special events that may impact any City owned property, including right-of-ways;

NOW, THEREFORE,

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

SECTION 1. REPEALER. That Ordinance No. 3753, codified at Kelso Municipal Code Chapter 12.24 Parades is hereby repealed in its entirety and replaced as set forth herein.

SECTION 2. NEW CHAPTER 12.24 KMC. That a new Kelso Municipal Code Chapter 12.24—Special Events—is hereby adopted as set forth in Exhibit A attached hereto and incorporated by this reference.

SECTION 3. SAVINGS CLAUSE. That Ordinance No. 3753 that is repealed by this Ordinance shall remain in full force and effect until the effective date of this Ordinance.

SECTION 4. SEVERABILITY. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be in full force and effect 5 days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of _____,

2013.

ATTEST/AUTHENTICATION:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED: _____

Exhibit A

Chapter 12.24 SPECIAL EVENTS

Sections:

- [12.24.010](#) Definitions.
- [12.24.020](#) Permit – Required.
- [12.24.030](#) Permit – Application – Fee.
- [12.24.035](#) Permit – Exceptions.
- [12.24.040](#) Permit – Application – Contents.
- [12.24.050](#) Permit – Application – Filing.
- [12.24.060](#) Bond required.
- [12.24.070](#) Insurance required – Hold harmless/indemnification.
- [12.24.080](#) Permit – Issuance standards.
- [12.24.090](#) Traffic control.
- [12.24.100](#) Appeal procedure.
- [12.24.110](#) Permit revocation or suspension.
- [12.24.120](#) Rules and policy.
- [12.24.130](#) Violation – Penalty.

12.24.010 Definitions.

- A. “Applicant” means the person, firm or entity making application for a permit.
- B. “City manager” shall mean the city manager or his/her designee.
- C. “Parade” means any march or procession consisting of people, animals, bicycles, vehicles, or combination thereof, except wedding processions and funeral processions, upon any public street or sidewalk which does not comply with adopted traffic regulations or controls.
- D. “Run” means an organized procession or race consisting of people, bicycles, or other vehicular devices or combination thereof upon the public street or sidewalk.
- E. “Public property” means a street or other public place (i.e., park) under the control and authority of the City.
- F. “Private event” means an event which uses public property for the purpose of monetary or personal gain by any person, partnership, group, organization, company or corporation or which is closed to the general public.

G. "Special event" means:

- (1) Any event or gathering of persons organized by any person or entity which occurs on City right of way or City public facilities, subject to the exemptions at KMC 12.24.035; or
- (2) Any event or gathering of persons organized by any person or entity that is expected to significantly disrupt the ordinary use of public facilities or the right of way, or significantly impact the delivery of City-provided emergency services, subject to the exemptions at KMC 12.24.035;
- (3) Special events are not limited to events conducted on public property, but may occur entirely on private property. An event on private property to which there is an open invitation to the public to attend, or an event where the attendance is expected to exceed one hundred (100) people is presumed to be an event that will significantly disrupt the ordinary use of public facilities or the right of way; events not open to the public or with less than one hundred (100) expected attendees are presumed to not significantly disrupt the ordinary use of the public facilities or the right of way;
- (4) Special event includes without limitation parades, runs, sporting events, street dances, shows or exhibitions, car shows, street fairs, block parties, or other activity, demonstration or exhibitions.

H. "Street" or "streets" means any public roadway, sidewalk, or portions thereof in the City of Kelso dedicated to the public use.

12.24.020 Permit – Required.

No person shall conduct a special event upon public property unless a permit has been obtained from the community development director.

12.24.030 Permit – Application – Fee.

The fee for a special event shall be determined by resolution.

A. No fee shall be imposed when prohibited by the First and Fourteenth Amendments to the United States Constitution, or Article I, Section 3, 4, 5 or 11 of the Washington Constitution. Political or religious activity intended primarily for the communication or expression of ideas shall be presumed to be a constitutionally protected event. Factors that may be considered in evaluating whether or not the fee applies include the nature of the event; the extent of commercial activity, such as the sales of food, goods, and services; product advertising or promotion, or other business participation in the event; the use or application of any funds raised; if part of an annual tradition or a series, previous events in the sequence; and the public perception of the event.

12.24.035 Permit – Exceptions.

12.24.035

The following activities are exempt from the requirement to obtain a special event permit, although such activities must still comply with all other applicable laws:

- A. A funeral procession by a licensed mortuary.
- B. Activities conducted by a governmental agency acting within the scope of its authority.
- C. Lawful picketing on sidewalks.
- D. Gatherings of one hundred (100) or fewer people in a City park, unless merchandise or services are offered for sale or trade or commercial purposes are involved.
- E. Recreational activities or gatherings at a City park that are otherwise regulated by the City's park rental and use policies.
- F. Temporary sales conducted by businesses, such as holiday sales, grand opening sales, or anniversary sales, provided that no merchandise is displayed or sales conducted in the public right of way.
- G. Garage, rummage, or estate sales.
- H. Pedestrian processions along a route that is restricted to sidewalks, and crossing streets only at pedestrian crosswalks in accordance with traffic regulations and controls.
- I. Events occurring within a facility properly licensed to conduct such events as part of their normal business, and where such facility maintains a legal occupant limit equal to or greater than the expected attendance at the event.
- J. Dances and other special events conducted by schools or churches.
- K. Wedding processions.
- L. Activities and events deemed by the Director to be exempt from a special event permit.

12.24.040 Permit – Application – Contents.

The application for a special event permit shall include the following:

- A. The name, address, and telephone number of the applicant and any event organizer, if different than the applicant;

- B. Payment of the applicable special event permit fee
- C. A certification that the applicant will be financially responsible for any City fees or costs that may be imposed for the special event, including the posting of the bond required in KMC 12.24.060, and compliance with the insurance requirements in KMC 12.24.070;
- D. A certification that the applicant will comply with the hold harmless and indemnification provisions in KMC 12.24.070;
- E. If the special event is designed to be held by, on behalf of, or for any organization other than the applicant, the applicant for the special event permit shall file a written communication from such organization:
 - 1. Authorizing the applicant to apply for the special event permit on its behalf;
 - 2. Certifying that the applicant will be financially responsible for any costs or fees that may be imposed for the special event;
 - 3. A copy of the tax exemption letter issued for any applicant claiming to be a tax-exempt nonprofit organization;
- F. A statement of the purpose of the special event;
- G. The proposed location for the special event, including both a map and written narrative, which shall include the locations for assembly, production, viewing, disbanding, parking, staging and any other activities related to the special event;
- H. Dates and times when the special event and associated activities are to be conducted;
- I. Proposed alternate routes, sites or times, where applicable;
- J. The approximate number of persons, animals or vehicles that will constitute the special event;
- K. The kinds of animals anticipated to be part of the special event;
- L. A description of the types of vehicles to be used in the special event;
- M. The number of bands or other musical units and the nature of any equipment to be used to produce sounds or noise;
- N. The number and location of portable sanitation facilities;

- O. Other equipment or services necessary to conduct the special event with due regard for participant and public health and safety;
- P. The number of persons proposed or required to monitor or facilitate the special event and provide spectator or participant control and direction for special events using City streets, sidewalks, or facilities;
- Q. Provisions for first aid or emergency medical services, or both, based on special event risk factors;
- R. Insurance and surety bond information; provided however, that if the applicant requests a modification of the insurance limits set forth in KMC 12.24.070, the applicant shall submit proof of insurance as required by the Director prior to permit issuance;
- S. Any special or unusual requirements that may be imposed or created by virtue of the proposed special event activity; and
- T. Any other information required by the community development director.

12.24.050 Permit – Application – Filing.

Any person wishing to sponsor a special event shall apply for a special events permit by filing a completed application with the Department at least 45 days prior to the date on which the event is to begin in order to provide adequate notice to public safety and other City personnel and to accommodate potential modifications to an applicant's event proposal. The community development director shall obtain review and approval of the permit from appropriate City departments and other agencies to include police, fire, public works, building and planning, risk management, and others as may be determined necessary by the Director. The Director shall issue an approval, approval with conditions, or denial no later than 21 days after receiving a complete application. The Department may accept an application for a special event up to 30 days prior to the event and shall issue a decision on that application no later than 7 days prior to the event; however in the event of an appeal of that decision, the City may not be able to schedule the hearing on the appeal prior to the event.

12.24.060 Bond required.

The community development director may require a cash deposit or performance bond in an amount determined by the director to be necessary to guarantee that the public property will be cleaned and returned to the condition in which it was found. The community development director shall determine the amount of bond or deposit by considering type of event, projected number of participants and spectators, the sponsor's experience, and other factors related to the condition and use of the City property.

12.24.070 Insurance required – Hold harmless/indemnification.

A. The applicant shall provide the City with a certificate of insurance demonstrating proof of liability insurance with a combined single limit of \$1,000,000 per occurrence, and \$2,000,000 in aggregate or such other amounts as may be as may be determined by the Director. Evidence of insurance shall be filed with the application and shall name the City of Kelso as an additional insured. Depending upon the nature of the special event and its risk to the public and private individuals, the community development director may increase or reduce the liability limits for a given event after consultation with the City's insurance carrier.

B. The applicant shall defend, indemnify, and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of the applicant's event, or from any activity, work or thing done, permitted, or suffered by applicant which arises from the applicant's event, except only such injury or damage as shall have been occasioned by the sole negligence of the City.

12.24.080 Permit – Issuance or denial.

A. The Director shall approve, conditionally approve, or deny an application based on the recommendations of City departments involved in the review process of the application for a special events permit and the grounds specified in this Chapter. If the application is denied or conditionally approved, the Director shall inform the applicant of the grounds for denial, or the reason for a change in the date, time, route, or location of the event. The applicant shall be notified of any permit conditions at the time the application is approved.

B. The Director may condition the issuance of a special events permit by imposing reasonable requirements concerning time, place, and manner of the event, and such requirements as are necessary to protect the safety and rights of persons and property, and the control of traffic. Such conditions include but are not limited to the following:

1. Alteration of the date, time, hours of operation, route, or location of the event proposed on the event application.
2. Conditions concerning the area of assembly and disbanding of an event along a route.
3. Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of a street.
4. Conditions where traffic congestion may be anticipated, encouraging use of transit and carpooling.
5. Requirements for the use of traffic cones or barricades.
6. Requirements for the provision of first aid and sanitary facilities.
7. Requirements for the provision of fire, police, emergency medical protection, and parks and public works crews for maintenance and cleanup, if necessary.
8. Requirements for coordination with the Fire Department and emergency personnel for emergency treatment and evacuation of people who may need immediate care, cardiopulmonary resuscitation, or

ambulance service; emergency communication; fire suppression equipment within structures; and maintenance of unobstructed emergency passageways.

9. Requirement for use of personnel to monitor the event and provide notice of permit conditions to event participants.
10. Restrictions on the number and type of vehicles, animals, or structures at an event.
11. Compliance with animal protection ordinances and laws.
12. Requirements for use of garbage containers, cleanup, and restoration of City and private property.
13. Restrictions on the use of amplified sound.
14. Notice to residents and/or businesses regarding any activity that would require a street closure.

C. The following conditions may be grounds for permit denial:

1. The applicant fails to submit a completed application within the required timeline;
2. The time, route, or size of the event will unreasonably disrupt the movement of traffic along streets;
3. The size or nature of the event requires supervision by a significant number of police officers that causes unreasonable expense or diversion of police duties;
4. The applicant has failed to remit all fees, documents, or proof of bonds;
5. The applicant has failed to conduct a previously authorized special event in accordance with law or the terms of a permit, or both;
6. The applicant has failed to provide sufficient safety, health or sanitation equipment services, or facilities;
7. The applicant has not provided sufficient off-site parking or shuttle service, or both, when required to minimize substantial adverse impacts on general parking and traffic circulation caused by the event;
8. The special event will substantially interfere with any other special event for which a permit has already been granted or with the provision of City services in support of other scheduled special events or governmental functions;
9. The special event would block traffic lanes or close streets during peak commuter hours on weekdays between 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. on streets designated as arterials by the City's public works department.

12.24.090 Traffic control.

The community development director may require any reasonable and necessary traffic control with the applicant responsible for the expense. The community development director shall notify the applicant of any City-projected traffic control expense and collect this amount before a permit is issued

12.24.100 Appeal procedure.

Upon denial of a permit by the community development director, an applicant may appeal to the city council by filing a written notice of the appeal within 10 days from the community development director's decision. Upon such appeal, the city council may reverse, affirm, or modify the community development director's determination.

12.24.110 Permit revocation or suspension.

The special event permit issued under this chapter is temporary and vests no permanent rights in the applicant, and may be immediately revoked or suspended by the community development director if:

- A. The applicant has made a misstatement of material fact in the information supplied;
- B. The applicant has failed to fulfill a term or condition of the permit in a timely manner;
- C. The applicant requests the cancellation of the permit or cancels the event;
- D. The activity endangers or threatens persons or property, or otherwise jeopardizes the health, safety or welfare of persons or property;
- E. The activity conducted is in violation of any of the terms or conditions of the special event permit;
- F. An emergency or occurrence requires the cancellation or termination of the event in order to protect the public health or safety; or
- G. The applicant fails to prepay expenses.

The City shall refund the permit fee in the event of revocation caused by an emergency or supervening occurrence. All other refunds shall be at the discretion of the community development director

12.24.120 Rules and policy.

To implement the special event permit, the community development director may develop and adopt rules, policies and forms consistent with this chapter. All adopted rules, policies and forms shall be filed with the city clerk.

12.24.130 Violation – Penalty.

Violation of this chapter is a class 1 civil infraction, punishable by a maximum penalty of two hundred and fifty dollars, plus statutory assessments.

Exhibit B

G. "Special event" means:

(1) Any event or gathering of persons organized by any person or entity which occurs on City right of way or City public facilities, subject to the exemptions at KMC 12.24.035; or

(2) Any event or gathering of persons organized by any person or entity that is expected to significantly disrupt the ordinary use of public facilities or the right of way, or significantly impact the delivery of City-provided emergency services, subject to the exemptions at KMC 12.24.035;

(3) Special events are not limited to events conducted on public property, but may occur entirely on private property. An event on private property to which there is an open invitation to the public to attend, or an event where the attendance is expected to exceed one hundred (100) people is presumed to be an event that will significantly disrupt the ordinary use of public facilities or the right of way; events not open to the public or with less than one hundred (100) expected attendees are presumed to not significantly disrupt the ordinary use of the public facilities or the right of way;

(4) Special event includes without limitation parades, runs, sporting events, street dances, shows or exhibitions, car shows, street fairs, block parties, or other activity, demonstration or exhibitions.

12.24.035

The following activities are exempt from the requirement to obtain a special event permit, although such activities must still comply with all other applicable laws:

A. A funeral procession by a licensed mortuary.

B. Activities conducted by a governmental agency acting within the scope of its authority.

C. Lawful picketing on sidewalks.

D. Gatherings of one hundred (100) or fewer people in a City park, unless merchandise or services are offered for sale or trade or commercial purposes are involved.

E. Recreational activities or gatherings at a City park that are otherwise regulated by the City's park rental and use policies.

F. Temporary sales conducted by businesses, such as holiday sales, grand opening sales, or anniversary sales, provided that no merchandise is displayed or sales conducted in the public right of way.

G. Garage, rummage, or estate sales.

H. Pedestrian processions along a route that is restricted to sidewalks, and crossing streets only at pedestrian crosswalks in accordance with traffic regulations and controls.

I. Events occurring within a facility properly licensed to conduct such events as part of their normal business, and where such facility maintains a legal occupant limit equal to or greater than the expected attendance at the event.

J. Dances and other special events conducted by schools or churches.

K. Wedding processions.

L. Activities and events deemed by the Director to be exempt from a special event permit.

AGENDA SUMMARY SHEET

Business of the City of Kelso City of Kelso, Washington

SUBJECT TITLE:

SECOND READING OF AN ORDINANCE
AMENDING KMC17.08.020 TO CHANGE THE
DEFINITION OF CULTURAL INSTITUTION

Agenda Item: _____

Dept. of Origin: Planning Department

For Agenda of: October 1, 2013

Cost of Item: N/A

PRESENTED BY:

Nancy Malone
Planning Manager

City Manager: Stephen Taylor

AGENDA ITEM ATTACHMENTS:

Proposed ordinance
Planning Commission 8/13/2013 meeting minutes
Staff Report
Victory Center Application materials

SUMMARY STATEMENT:

The Kelso Community Development Department has received an application from Leonid Pisarchuk on behalf of the Victory Center to requesting a text amendment to the definition section of the Kelso Municipal Code 17.08. The applicant is requesting that the definition of "Cultural Institution" to include the language "of human refinement such as customs, social behavior".

The Planning Commission held a public hearing and considered the application on August 13, 2013, and voted in favor of the requested text amendment in a 4-3 decision recommending approval to the City Council.

City staff does not recommend approval of the text amendment.

The text change is a legislative amendment to zoning code pursuant to KMC 18B.01.030. This change in definition would apply to all zones throughout the city.

FINANCIAL SUMMARY:

None

OPTIONS:

If the Council wishes to implement this code change, then approve the ordinance on 2nd reading.

If the Council does not wish to implement this code change, do not approve the text change amendment.

RECOMMENDED ACTION:

Staff recommends council to make a motion not to approve the text change amendment.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KELSO AMENDING KELSO MUNICIPAL CODE CHAPTER 17.08.020 TO AMEND THE DEFINITION OF “CULTURAL INSTITUTION”.

WHEREAS, The Kelso Community Development Department has received an application from Leonid Pisarchuk on behalf of the Victory Center requesting a text amendment to the definition section of the Kelso Municipal Code 17.08. The applicant is requesting that the definition of “Cultural Institution” to include the language “of human refinement such as customs, social behavior”; and

WHEREAS, the matter was brought to the Planning Commission who conducted a public hearing, taking public testimony, and considered the matter on August 13, 2013; and

WHEREAS, the Planning Commission voted in favor of the requested text amendment in a 4-3 decision recommending approval to the City Council.

NOW, THEREFORE,

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

SECTION 1. AMEND KMC 17.08. That the definition of “Cultural Institution” as defined in KMC 17.08.020 DEFINITIONS is hereby amended to provide as follows:

“Cultural institution” means a building used primarily for the production, presentation, or exhibition of cultural disciplines **of human refinement such as customs, social behavior, such as** music, dance, theater, literature and the visual arts, or items of scientific interest.

SECTION 2. SEVERABILITY. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and effect 5 days

after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of _____
_____, 2013.

ATTEST/AUTHENTICATION:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED: _____



Kelso Planning Commission Meeting Minutes
Wednesday, August 13, 2013
6:00pm – 7:53pm

Commissioners Present: Dan Jones, Clark Hislop, James Webb, Rick VonRock, Toby Tabor, James Webb, Patricia VanRollins

Staff Present: Janean Parker, City Attorney; Nancy Malone, Community Development Manager; Stephanie Helem, Recording Secretary

Call to Order:

Chair Patricia VanRollins called the meeting to order at 6:00 pm.

Minutes:

Commissioner VonRock made the motion, seconded by Commissioner Wade to approve the minutes of June 12, 2013. Motion carried, all in favor.

Public Hearing:

Commissioner VanRollins stated the purpose of tonight's public hearing. On December 4, 2012, the Kelso Community Development Department received an application from the Victory Center requesting a text amendment to the City's Ordinance, Title 17, definition section 17.08. The proposed amendment is to expand the definition of Cultural Institution from "a building used primarily for the production, presentation, or exhibition of cultural disciplines of music, dance, theater, literature and visual arts, or items of scientific interest" to add the language "human refinement such as customs, social behavior". Cultural institutions are allowed in all zoning districts except for Open Space.

Commissioner VanRollins addressed the commission with the appearance of fairness questions and outlined the Rules of Procedure for a Quasi-Judicial public hearing. Speaking time limits for proponents and opponents for the proposal will be given 30 minutes total. Each individual may speak for five minutes or less.

All members of the public speaking audience were administered an oath.

Commissioner Webb acknowledged he was on city council when the Victory Center was heard separate from this language change.

City Attorney Parker clarified this hearing is not going to determine the legal rights of any proponent or opponent. This is an application for a text change. The text change will apply to all zones and all properties throughout the city.

City Staff, Nancy Malone, Planning Manager, read portions from the staff report "Findings and Recommendations of the Administrative Official". The proposal does not appear to be consistent with the goals, and policies of the comprehensive plan or other zoning provisions. First, the adopted definition is consistent with common land use principles. Second, there are no changed conditions or circumstances, either described in the application or that the city is aware of, that warrant changing the definition from that determined by the hearing examiner to be reasonable in 2010 and adopted by the city in 2011. Third, the addition of proposed language would add ambiguity and not clarity to the definition. The Administrative Official hereby makes a recommendation that the zoning text

amendment to enhance the description of “Cultural Institution” to include “of human refinement such as customs, social behavior” be denied and the existing definition remain as is.

Proponents who spoke in favor of the Victory Center:

- Leonard Pisarchuk, 3514 Pacific Way, Longview, WA. Member of the Board for Victory Center. He would like the planning commission to consider three things. (1) During 3 year stay at this location there have been no incidents. No issues with parking. Didn't affect businesses in the negative. Good terms with neighbors in south Kelso. Very good support from citizens. (2) Document that was read said the proposal is vague and unclear. Very clear the goal we pursue. (3) If this is about language then please help us to find the right words to make provision for the Victory Center to stay where it is at. In three years lives of hundreds of people were impacted by this ministry.

Proponents who spoke in favor of the Victory Center staying at its existing location. Did not specifically address the text change proposal:

- Wallace Hall, 1101 S. 3rd, Kelso, WA.
- Jarold Lee Arionas (sp?), 2618 Fir St., Longview, WA.
- Justin Matherone (sp?), grew up at 506 Ash St, Kelso, WA.
- Morgan Cann, 208 Ostrander Rd, Kelso, WA. Victory Center Director.
- Vera, 2732 Fir St, Longview, WA.
- Mike Russell, 406 Ash St, Kelso, WA.
- No Name, No Address.
- Cary Jacobs, 17 St. Helens Lane, Longview, WA.
- Alicia Palechenko (sp?), Grew up here, lives in Vancouver, WA.
- Todd Kadwell, Lifelong Kelso Resident.
- Michael Bales, 353 Maranatha Rd., Kelso, WA.
- Valerie Ann Jacobs, Cooks at Victory Center.

Opponents: No opponents

Commission discussion followed. Background information was proved by city staff. In 2010 an application went to a hearings examiner because there was a clarification of a definition. There was an appeal that was filed and the hearings examiner ruled in favor of the city. At that point attorneys got involved and the Victory Center was given the option to apply for some type of text or zoning change or leave. They chose to apply for this text change.

City staff reminded everyone this is a text change only. If this text change is approved by the planning commission and city council the Victory Center will have to apply for an administrative use permit. This means another series of hearings.

Commission discussion followed.

The Commission voted on the recommendation to council for the zoning text amendment to enhance the description of cultural institutions to include ‘human refinement such as customs and social behavior’. Passed 4 to 3. Commissioners Webb, Hislop, Tabor, Wade in favor. Commissioners Jones, VanRollins, VonRock opposed.

The recommendation of the Planning Commission now moves to the city council.

Public Hearing Adjourned at 7:34pm.

A representative from the Victory Center requested this not be sent to council for 3 to 4 weeks as the Pastor will be out of town on business.
City staff confirmed this will probably be set for (city council) the first part of September.

Chair VanRollins called a 5 minute recess at 7:37pm.

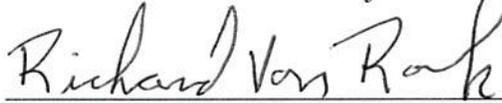
Meeting was called back to order at 7:41pm.

Commission Business:

1. Question on why there was no opponents for the (Victory Center) text change. When there is a text change for zoning no public notices are sent out. A Public Hearing notice is published in the paper and notification sent to the applicant. Discussion followed.
2. Implemented an Emergency Moratorium at last city council meeting for medical marijuana and I-502. Will be taking this to Public Hearing the 20th of August. Discussion followed.
3. Shoreline Draft Plan Update. Plan went to Department of Ecology. Received comments from the Department of Ecology. Will be looking at some more changes. David Sherrard who was the consultant is no longer working on the plan with Parametrix. Jennifer Hughes with Parametrix is now the Planning Manager overseeing the Shoreline plan update.
4. Commissioner VonRock would like to discuss Solar Power code at the next meeting.

Adjournment:

There being no further business, Commissioner VonRock made the motion seconded by Commissioner Webb to adjourn at 7:53p.m.



~~Patricia VanRollins~~, Planning Commission Chair *Vice-Chair*
Richard Von Rock



Respectfully submitted:
Stephanie L. Helem, Recording Secretary

**CITY OF KELSO
COMMUNITY DEVELOPMENT DEPARTMENT
FINDINGS AND RECOMMENDATIONS
OF THE ADMINISTRATIVE OFFICIAL**

July 26, 2013

CONSIDERATION OF AN APPLICATION)	FILE NO. ZON 12-002
SUBMITTED BY LEONID PISARCHUK ON)	
BEHALF OF THE VICTORY CENTER)	
REQUESTING A ZONING TEXT AMEND-)	RECOMMENDATION FOR
MENT REDEFINING “CULTURAL INSTITU)	DENIAL
TION” IN CHAPTER 17.08 DEFINITIONS)	PARCEL NO. 21141

INTRODUCTION

The Kelso Community Development Department has received an application from Leonid Pisarchuk on behalf of the Victory Center to requesting a text amendment to the definition section of the Kelso Municipal Code 17.08. The applicant is requesting that the definition of “Cultural Institution” to include the language “of human refinement such as customs, social behavior”.

Applicant: Leonid Pisarchuk
3514 Pacific Way
Longview, WA 98632

Proponent: Victory Center
401 S. Pacific Avenue
Kelso, WA 98626

FINDINGS & ANALYSIS

1. Proposal.

The Victory Center which is represented by Leonid Pisarchuk is currently located at 401 S. Pacific. The applicant has applied for a text amendment to the definition section of the Kelso Municipal Code. This is not a site specific proposal. The applicant has specifically requested that the definition of “Cultural institution” be enlarged to include the language: “of human refinement such as customs, social behavior”. The existing definition provides:

“Cultural institution” means a building used primarily for the production, presentation, or exhibition of cultural disciplines such as music, dance, theater, literature and the visual arts, or items of scientific interest.

The revised definition as proposed would provide:

“Cultural institution” means a building used primarily for the production, presentation, or exhibition of cultural disciplines **of human refinement such as customs, social behavior**, music, dance, theater, literature and the visual arts, or items of scientific

interest.

2. **Zoning and Comprehensive Plan.**

Kelso Municipal Code Chapter 17.150 Amendments and Rezones specifically states the purpose as follows: From time to time a change in circumstances or conditions may warrant a change in the zoning text or map created by this title. The purpose of this chapter is to establish the procedures to amend the zoning text and/or map when the proposed change would be consistent with the goals, objectives and policies of the comprehensive plan and intent of this title. (17.150.010).

The applicant is requesting to expand the definition of "Cultural institution" to include the verbiage of human refinement such as customs, social behavior to the original definition, as a building used primarily for the production, presentation, or exhibition of cultural disciplines such as music, dance, theater, literature and the visual arts, or items of scientific interest.

Chapter 17.15 identifies the permitted uses in all zoning designations within the city. The type of use as identified within table 17.15.020 Educational, Cultural, or Government is permitted in the City as follows:

- (1) as an outright permitted use, typically called a Type I review process, it is permitted subject only to compliance with applicable development, building, and parking codes in the Commercial West Kelso, Commercial Specialty Retail, Commercial Major Retail and Industrial General Manufacturing zoning districts.
- (2) as an "Administrative Use**", typically called a Type II review process, it **may be** permitted in the Residential Single Family, Residential Multi-Family, Commercial Town Center, and Industrial Light Manufacturing zoning districts.
- (3) as a "Conditional Use***" process typically called a Type III review process, it **may be** permitted in the Commercial Neighborhood zoning district
- (4) The use is specifically not an allowed use in the Open Space zoning district

*Administrative Uses are generally allowed in the zoning district. However, the compatibility between a Type II use and the surrounding environment cannot be determined in advance. A Type II application shall be reviewed by the administrative official and may be conditioned in order to ensure compatibility and compliance with the provisions of the zoning district and the goals, objectives and policies of the comprehensive plan. Occasionally, even with conditions, a Type II use may be incompatible at a particular location. If a Type II application cannot be adequately conditioned, it shall be denied.

**Conditional Uses are generally not appropriate throughout the zoning district but may be permitted at a particular location where it can be conditioned in such a way to ensure compatibility and compliance with the provisions of the zoning district and the goals, objectives and policies of the comprehensive plan. If a Type III application cannot be adequately conditioned, it shall be denied. Type III conditional use permit applications are decided by the hearing examiner after public hearing review. A conditional use permit may not be granted for a use in a district from which it is specifically prohibited.

While not a site specific proposal, the proponent is located in the area designated by the Kelso Comprehensive Plan as Commercial. Further, Commercial zones are the areas where the use is allowed outright or as an administrative use and as such is where the use is most compatible. The goal of the Commercial land use category is to centralize commercial services while providing improved vehicle and pedestrian access and circulation to the benefit of the business and customer, while attaining a higher level of commercial and retail services in the City. The following Comprehensive Plan goals and policies are applicable to the City's intent for the commercial areas:

Goal A: To centralize services while providing improved vehicle and pedestrian access and circulation to the benefit of the business and the customer.

Goal B: To attain a higher level of commercial and retail services in the City.

Commercial Policy #1 – Commercial uses should be centralized around the Interstate-Allen Street area and the existing Central Business District, including West Kelso, in order to minimize traffic movement and congestion.

Commercial Policy #2 – Commercial uses should be located to front on major and secondary arterials.

Commercial Policy #6 – Commercial development along South Pacific Avenue south of Cherry Street should be confined to those areas already developed. Existing business should be encouraged to improve their appearance and further lend their activities into the neighborhood area.

Commercial Policy #8 – The city should encourage, through the provision of improvements and areas, the siting of professional offices in the central business district.

Commercial Policy #10 – Existing vacant lands and buildings in commercially designated and zoned areas of the City should be utilized for commercial activities which enhance and compliment other retail and service uses.

Goal C: To improve the existing commercial areas of the city.

Goal D: To develop an overall design scheme for the downtown and West Kelso area.

Objectives

3. To amend the Kelso Zoning Ordinance to more clearly define the specific uses and standards within each commercial zoning classification.

4. To implement the findings and recommendations of the city's traffic study in order to smooth traffic flows through and around the commercial areas of Kelso.

Policies

1. The city and the downtown merchants should cooperate in the purchase, development, and maintenance of conveniently located off-street parking.

2. Warehouse uses in and around the downtown business area should not be allowed to expand or increase in number and should be encouraged to relocate to industrial zoned areas. If a warehouse business moves or goes out of business, alternative uses of the facility should be researched and established to provide for a greater variety of retail and service activities in downtown and West Kelso.

3. Existing warehouse building exteriors and yards should be improved and maintained so as to make them more compatible with adjacent and nearby commercial and residential uses.

6. The city should seek ways to expand and diversify the commercial uses in downtown and West Kelso. Incentives such as lowered off-street parking requirements combined with multiple use of large buildings are possible techniques to attract potential retail outlets.
7. If economically feasible, older buildings and former residences should be renovated to house new and different uses whose functions enhance other businesses in Kelso.
8. Multi-family housing is encouraged to locate in the downtown area and West Kelso, but only as a use secondary to commercial uses. This can be accomplished by a variety of methods: Use vacant lands for new structures with commercial uses on the lower floors and living units above; or encourage the turnover of incompatible or inactive uses, such as warehouses or abandoned buildings, to combination multi-family/professional office/retail facilities.

3. Background.

In 2010, the City's Hearings Examiner adopted definitions for "Cultural Center" and "Community Center" as part of an administrative appeal of a decision that the Victory Center as it was then constituted was not an allowed use in the City's town center. Prior to this, these terms were not defined within the zoning code. As a result of the examiner's findings, and consistent with land use principles, the City adopted definitions of the terms in 2011 as a part of its regular zoning update that incorporated the definitions that were adopted and used by the Hearings Examiner.

Cultural Institution was defined as "a building used primarily for the production, presentation, or exhibition of cultural disciplines such as music, dance, theater, literature and the visual arts, or items of scientific interest."

Community Center was defined as "a location where members of a community may gather for group activities, social support, public information, and other purposes. They may sometimes be open for the whole community or for a specialized group within the greater community." KMC 17.08.020.

4. Analysis.

It clear from the narrative that the proponent expects this text amendment to allow its particular use of the property as an outright use; however, the text amendment change itself does not determine whether any particular use is allowed and that question is not before the City. Instead, the City must evaluate the text amendment independent of any site specific use because the amendment will apply equally throughout all zones within the City. Furthermore, additional facts would be necessary to evaluate whether the applicant's use more closely resembled the proposed revised definition of cultural center or some other use defined in the code.

The proposal does not appear to be consistent with the goals, and policies of the comprehensive plan or other zoning provisions for the following reasons:

First, the adopted definition is consistent with common land use principles. In 2010, when the Planning Director determined that the term cultural center was not defined in the Zoning Code, he conducted a reviewed of the matter and through an administrative interpretation applied the following definition, which came from "Planning and Urban Design Standards, American Planning Association"; John Wiley and Sons, Inc.; Hoboken, New Jersey; 2006, Page 435: Cultural Facility is "A building used primarily for the production, presentation, or exhibition of cultural disciplines such as music, dance, theater, literature and the visual arts." And also, from the Babylon online dictionary, Cultural Center is "an organization, usually located in a building or complex, that promotes cultural arts. Cultural centers can be neighborhood community arts organizations, private facilities, government-sponsored, or activist-run." The intent was to distinguish this type of use, which supports pedestrian activity, as opposed to places where people assemble. Cultural Centers are listed as an allowed use in the CTC zone based on

this premise. Cultural Centers such as studios that display various forms of visual artistry, museums or some other type of historic center do not present the same types of impacts as places of assembly and, in fact, support pedestrian activity and the concept of downtown revitalization. There may be types of Cultural Centers that are places of assembly, such as centers for performing arts that would not likely be compatible with the small downtown scale of the zone, and the required site review would likely mandate that they be located elsewhere because of their inability to meet parking and other development regulations. The Hearings Examiner found the City's definition reasonable and it was proposed to the Planning Commission and City Council and included in the 2011 zoning code update. The proposal appears to expand the definition of enumerated cultural disciplines to allow other types of institutions to be included. It is unclear whether this expansion would include uses that had more assembly type functions and as such would have greater impacts than as currently defined.

Second, there are no changed conditions or circumstances, either described in the application or that the City is aware of, that warrant changing the definition from that determined by the hearing examiner to be reasonable in 2010 and adopted by the City in 2011. Generally text or zoning changes are warranted if the nature of an area changes over time or if changes in law or ambiguities are discovered through the application of the code that needs to be updated. No such circumstances have developed here.

Third, the addition of proposed language would add ambiguity and not clarity to the definition. Music, theater, art, and literature are commonly understood cultural disciplines. Museums, art galleries, and theaters are common uses that are often consistent with a vibrant and pedestrian friendly commercial zones. The words "such as" as currently included in the definition allows for other types of cultural disciplines as well. It is uncertain what uses would be included by expanding the definition to include "human refinement such as customs, social behavior". Such uses may very well overlap with uses that are currently addressed in other use categories such as Community Center uses. The proponent, from the statements in the application, wishes to make the case that this proposed change would include institutions such as the Victory Center. Whether or not this is so is not clear from the facts, and is not before the City in this application. At best, this added language would be subject to further administrative interpretation as to whether or not a proposed use was a cultural institution because it was producing or exhibiting social behavior. Because the proposed language is vague, it is ripe for further interpretation disputes. For the foregoing reasons, the application for text amendment should be denied.

RECOMMENDATION TO THE PLANNING COMMISSION

The Administrative Official hereby makes a recommendation that the zoning text amendment to enhance the description of "Cultural Institution" to include "of human refinement such as customs, social behavior" be denied and the existing definition remain as is.

7/26/13
Date

Nancy Malone
Nancy Malone
Community Development Manager

Public Hearing Notice

NOTICE IS HEREBY GIVEN that an open record public hearing is scheduled before the Kelso Planning Commission, Tuesday, August 13, 2013 at 6:00pm in the City Hall Council Chambers, 201 S Pacific Avenue, Kelso, WA 98626.

On December 4, 2012 the Kelso Community Development Department received an application, from Leonid Pisarchuk (Victory Center) requesting a text amendment to the City's Zoning Ordinance, Title 17 (definition section 17.08). The proposed amendment is to expand the definition of Cultural Institution from "a building used primarily for the production, presentation, or exhibition of cultural disciplines of music, dance, theater, literature and the visual arts, or items of scientific interest" to add the language "**human refinement such as customs, social behavior**" Cultural institutions are allowed in all zoning districts except for Open Space.

The hearing will allow the city to receive comments on the proposed text amendments. If you have any questions, please contact Nancy Malone, Kelso Community Development Planning Manager at (360) 423-9922. Be sure to reference file no. ZON12-002/SEP12-004.

The Council Chambers room is handicap accessible. Arrangements to reasonably accommodate special needs, including handicap accessibility or interpreter, will be made upon receiving 24-hour advance notice. Contact the City Clerks Office at (360) 423-0900.



COMMUNITY DEVELOPMENT

203 S. Pacific #208
P.O. Box 819
Kelso, Washington 98626

(360) 428-9922
FAX (360) 423-6591

Date: 12-4-12
File: SEPA12-004
Zoning: CTC
Reviewed: SZ

DEC 04 2012

COMMUNITY DEVELOPMENT

- Zoning _____
- Site Plan Review
- SEPA

MASTER LAND USE APPLICATION

- Type II Review
- Type III Review
- Type IV Review

Office Use Only

Office Use Only

CHECK ALL THAT APPLY AND ATTACH THE APPROPRIATE SUPPLEMENTAL FORM(S)

- | Zoning / Comp. Plan Amendment | | Subdivision | Other / |
|--|--|---|---|
| <input type="checkbox"/> Type I Use | <input type="checkbox"/> Admin. Adj. | <input type="checkbox"/> Exemption (SSE) | <input checked="" type="checkbox"/> Environmental Checklist |
| <input type="checkbox"/> Type II Administrative Use | <input type="checkbox"/> Variance | <input type="checkbox"/> Short Subdivision | <input type="checkbox"/> Appeal: |
| <input type="checkbox"/> Type III Conditional Use | <input type="checkbox"/> Modification | <input type="checkbox"/> Subdivision (Long) | <input type="checkbox"/> JARPA: |
| <input type="checkbox"/> Site Plan | <input type="checkbox"/> PUD | <input type="checkbox"/> Binding Site Plan | <input type="checkbox"/> Substantial Development |
| <input type="checkbox"/> Design Review | <input type="checkbox"/> Nonconforming Use | <input type="checkbox"/> Alteration/Vacation | <input type="checkbox"/> Critical Area |
| <input checked="" type="checkbox"/> Rezone / Comp. Plan Amend. | <input checked="" type="checkbox"/> Interpretation | <input type="checkbox"/> Subdivision Variance | <input type="checkbox"/> Shoreline Exemption |
| <input type="checkbox"/> Annexation | <input checked="" type="checkbox"/> Text Amendment | <input type="checkbox"/> Sign Permit | <input type="checkbox"/> Reduce Resource Setback |

Type of Project Commercial Industrial Residential Subdivision/Legal Description _____
 Property Address: 401 S. Pacific, Kelso WA
 Parcel Number(s): 21141 Will project be in the Flood Plain (yes/no) _____
 Any part of this property within 200 feet of a shoreline of statewide significance (yes/no) _____
 Will there be any filling, grading or excavation associated with the project (yes/no) If yes, quantity of earthwork _____
 Project Description zoning Text Amendment - Victory Center - Title 17
SEPA Review

Applicant Information: (Please Check Contact Person)

The property owner(s), by signing this form, hereby state as true that they are the owner(s) of the property that is the subject of this application, have reviewed the proposal as presented in the application, and wish to pursue the change(s) in land use.

Applicant (Property Owner? Y/N): Leonid Pisarchuk Day Phone: (360) 431-3090
 Company (if any): Kelso Church of Truth Owner of Parcel(s): (Circle) A B C D
 Address: 401 S Pacific City: Kelso State: WA ZIP: 98626
 Signature: [Signature] Date: 11/28/2012

Representative of Applicant (if any): _____
 Company: _____ Day Phone: (_____) _____
 Address: _____ City: _____ State: _____ ZIP: _____

Property Owner (If different): _____ Day Phone: (_____) _____
 Company (if any): _____ Owner of Parcel(s): (Circle) A B C D
 Address: _____ City: _____ State: _____ ZIP: _____
 Signature: _____ Date: _____

Property Owner (If different): Boyd REAL ESTATE INVESTMENTS Day Phone: (_____) _____
 Company (if any): KEVIN G BOYD, PRESIDENT Owner of Parcel(s): (Circle) A B C D
 Address: 3177 NE 82ND ST City: SEATTLE State: WA ZIP: 98115
 Signature: Kevin G Boyd Date: 11/20/2012

If there are additional property owners, provide an attachment in the same format and with the same declaration.



NARRATIVE FORM

Kelso Community Development
203 S. Pacific Ave. #208 - Kelso, WA 98626
360-423-9922 • 360-423-6591 • www.kelso.gov

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CITY OF KELSO
DEC 04 2012
COMMUNITY
DEVELOPMENT

Project #	Description:
Parcel Number(s)	
Owner(s)	

The Narrative Form is designed to help you and the application reviewer understand how your project meets the legal requirements in the *Kelso Municipal Codes*. In addition to this narrative form you may be asked to fill out other forms that apply to your proposal. You should refer to the appropriate sections of the ordinance, when applicable. You can obtain a copy of the ordinance in our offices, or access it on the internet at www.kelso.gov (click on City of Kelso Code and Charter).

Please tell us the Who, What, Where, When, and Why of your proposal. A checklist for content is provided below. If you address each of the items identified below, the narrative will be complete. Some of the questions may not apply. The area provided for your narrative continues on the second page of this form. You may attach additional pages if needed.

Narrative Content:

- Describe the uses and structures, if any that are proposed.
- Describe the size of the structures and scope of the each use, if any.
- Describe who will be using the structures and implementing the uses (for example; number of people, private or public, any fees . . .)
- Describe timelines for construction and completion of structures, if any.
- Describe timelines that apply to uses (for example: when the uses will take place, how frequently, hours of operation . . .)
- Describe the current use of the area and surrounding area, if any. Please include only those uses that are immediately adjoining your proposal and those which are in the vicinity and may be affected by your proposal.
- Describe the structures currently on site and in the surrounding area (for example: how many, what size . . .)

see attached

NARRATIVE

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The reason for the suggested amendment is to provide a clearer and more comprehensive definition of the term Cultural institution in **17.08.040**. This request meets the criteria in **18B.10.04C** as it does not interfere with any other city of Kelso plan goals or policies.

The structure: Existing 6K+/- square foot building.

The use: used for presentations, music, dance, lectures, events, banquets, and education to transmit knowledge to succeeding generations

Depending on event, may be open to the public or by invitation. The use of the structure to be implemented by staff/volunteers. Volume will vary depending on events, 10-150 people.

Time lines for construction: structure is existing.

Timelines: Times of operation vary depending on planed events, can be open from 9am to 9pm Tuesday through Sunday.

Current use is a cultural and educational center.

Structure is located on a corner of S. Pacific and Pine. Behind the structure: bar-will not be affected

Next to the structure: Vacant three story building-will not be affected.

Site consists of one 6k +/- square foot building, adjacent to a three story building and a single story building behind the structure.