



Agenda
City Council Regular Meeting
Tuesday, July 6, 2021
Richland City Hall ~ 625 Swift Boulevard
[Zoom](#) - Public Telephone Access: (206) 337-9723 or (253) 215-8782
Meeting ID No. 505 625 7380

This meeting will accommodate virtual and in-person attendance. Those desiring to participate virtually are encouraged to join the meeting via Zoom using the information provided. If you are a virtual participant wishing to provide comments for the Public Hearing and/or Public Comment portion of the meeting, please register [here](#) by 4:00 p.m. on the day of the meeting. Only those virtual participants who register by the 4:00 p.m. deadline will be permitted to speak or have their comments read into the record during the meeting. Individuals attending in-person may offer comments during the Public Comment and/or Public Hearing portions of the meeting at Richland City Hall. Fully vaccinated meeting participants and attendees need not be masked. The meeting will be broadcast live on CityView Channel 192 and at <https://www.ci.richland.wa.us>.

City Council Regular Meeting - 6:00 p.m.

Welcome and Roll Call

Pledge of Allegiance

Approval of Agenda: (Approved by Motion)

Presentations:

- I. 4th of July Update
 - John Bruce, Chief of Police
 - Tom Huntington, Fire Chief
 - Joe Schiessl, Parks & Public Facilities Director

Public Hearing: Please limit public hearing comments to 3 minutes. Comments must speak only to the item for which the hearing is convened. Records intended for Council consideration must be given to the City Clerk by 4:00 p.m. the day of the meeting for distribution.

Public Comments: Please limit public comments to 2 minutes. The public comment period is not an opportunity for dialogue with councilmembers, or for posing questions with the expectation of an immediate answer. Many questions require an opportunity for information-gathering and deliberation. For this reason, Council will accept comments, but will not directly respond to comments, questions or concerns during public comment. Records intended for Council consideration must be given to the City Clerk by 4:00 p.m. the day of the meeting for distribution.

Consent Calendar: Approved by single vote; Councilmembers may transfer individual items to Items of Business for deliberation before voting.

Minutes:

2. Approval of the June 15, 2021 City Council Meeting Minutes and June 22, 2021 City Council Workshop Meeting Minutes
 - Heather Kintzley, City Attorney

Ordinances - First Reading:

Ordinances - Second Reading & Passage:

3. Ordinance No. 16-21, Amending Chapter 22.10 of the Richland Municipal Code related to Critical Areas
 - Kerwin Jensen, Development Services Director
4. Ordinance No. 17-21, Amending Chapter 23.70 of the Richland Municipal Code Related to Administration, Enforcement and Amendment
 - Kerwin Jensen, Development Services Director

Resolutions - Adoption:

5. Resolution No. 68-21, Authorizing a Consultant Agreement with RH2 Engineering, Inc. related to the Center Parkway South Extension Project
 - Pete Rogalsky, Public Works Director
6. Resolution No. 76-21, Approving the Final Plat of Westcliffe Heights - Phase 3
 - Kerwin Jensen, Development Services Director
7. Resolution No. 79-21, Setting a Meeting Date to Review a Proposed Annexation of Approximately 300.1 Acres in North Richland (USDOE)
 - Kerwin Jensen, Development Services Director
8. Resolution No. 80-21, Authorizing a Weatherwise Contractor Agreement with Silverbow Roofing, Inc. for Weatherwise Program Participation
 - Clint Whitney, Energy Services Director
9. Resolution No. 81-21, Authorizing an Amendment to the Consultant Agreement with Murraysmith related to the Wastewater Treatment Plant Aeration Basin Retrofit Project
 - Pete Rogalsky, Public Works Director
10. Resolution No. 82-21, Authorizing a Services Agreement with the Benton-Franklin Health District for COVID-19 Mobile Vaccination Clinics
 - Tom Huntington, Fire Chief
11. Resolution No. 83-21, Authorizing an Amendment to the Lease Agreement with Frost Me Sweet, LLC
 - Joe Schiessl, Parks & Public Facilities Director

Items - Approval:

12. Authorize Travel for Mayor Lukson and Councilmember Thompson
 - Jon Amundson, Interim City Manager
13. Appointment to the Board of Adjustment: Justin Raffa
 - Heather Kintzley, City Attorney
14. Appointment to the Utility Advisory Committee: Dave Larkin
 - Heather Kintzley, City Attorney

Items of Business:

15. Resolution No. 72-21, Authorizing Award of Bid to Sierra Electric, Inc. for the Traffic Signal Systemic Safety Upgrades Project

- Pete Rogalsky, Public Works Director

16. Resolution No. 84-21, Accepting a Request for Annexation (Brantingham)

- Kerwin Jensen, Development Services Director

17. In-Person Meetings for Boards, Commissions & Committees (Discussion)

- Heather Kintzley, City Attorney

Reports and Comments:

1. City Manager
2. City Council
3. Mayor

Adjournment

City Council meetings are broadcast live on CityView Channel 192 and online at ci.richland.wa.us

Richland City Hall is ADA accessible. Requests for sign interpreters, audio equipment, and/or other special services must be received 48 hours prior to the meeting by calling the City Clerk's Office at 942-7389.



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Presentations

Core Focus Area 6 - Enhance Neighborhood & Community Safety

Subject:
4th of July Update

Department:
Police

Ordinance/Resolution Number:

Document Type:
Presentation

Recommended Motion:
None.

Summary:

Fiscal Impact: None.

Attachments:



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Minutes

Core Focus Area I - Promote Financial Stability & Operational Effectiveness

Subject:

Approval of the June 15, 2021 City Council Meeting Minutes and June 22, 2021 City Council Workshop Meeting Minutes

Department:
City Attorney

Ordinance/Resolution Number:

Document Type:
Minutes

Recommended Motion:

Approve the minutes from the June 15, 2021 City Council Meeting and June 22, 2021 City Council Workshop Meeting.

Summary:

Draft minutes from the June 15, 2021 City Council Meeting and June 22, 2021 City Council Workshop Meeting are provided for Council's review and approval.

Fiscal Impact: None.

Attachments:

1. Draft June 15, 2021 City Council Meeting Minutes
2. Draft June 22, 2021 City Council Regular Workshop Meeting Minutes



MINUTES

RICHLAND CITY COUNCIL REGULAR MEETING

Tuesday, June 15, 2021

Zoom - Public Telephone Access: (206) 337-9723 or (253) 215-8782

Meeting ID No. 505 625 7380

City Council Regular Meeting - 6:00 p.m. via Zoom

Mayor Lukson called the remote Council meeting to order at 6:00 p.m.

Welcome and Roll Call

Mayor Lukson welcomed those attending the remote meeting.

Attendance: Mayor Lukson, Mayor Pro Tem Kent, and Councilmembers Alvarez, Boring, Christensen, Lemley and Thompson were present.

Also remotely present were Interim City Manager Amundson, City Attorney Kintzley, Chief of Police Bruce, Fire Chief Huntington, Public Works Director Rogalsky, Energy Services Director Whitney, Administrative Services Director Koch, Parks & Public Facilities Director Schiessl, Planning Manager Stevens and City Clerk Rogers.

Pledge of Allegiance

Councilmember Alvarez led the Council and audience in the recitation of the Pledge of Allegiance.

Approval of Agenda

COUNCILMEMBER CHRISTENSEN MOVED AND COUNCILMEMBER THOMPSON SECONDED THE MOTION TO APPROVE THE AGENDA AS PUBLISHED. THE MOTION CARRIED 7-0.

Presentations

1. Chancellor's Update: WSU Tri-Cities

With the aid of a PowerPoint presentation, WSU Tri-Cities Chancellor Sandra Haynes gave a WSU Tri-Cities update which included information regarding new construction, renovations, graduation, an in-person learning plan, new college courses, additional learning opportunities, student housing, and student transfer data. Following the presentation, Dr. Haynes engaged in a question and answer session with Council.

Public Hearings

City Clerk Rogers read the Public Hearing and Public Comments procedures.

2. Proposed Transportation Improvement Program, Resolution No. 67-21

Public Works Director Rogalsky provided an overview of the City's proposed 2022-2027 Transportation Improvement Program (TIP). RCW 35.77.010 requires cities to annually prepare and update their six-year TIP pursuant to one or more public hearings.

Public Works Director Rogalsky identified the proposed funded projects and unfunded priorities list included in the proposed 2022-2027 TIP. A list of new and removed projects added since 2020 was also presented.

Mayor Lukson opened the public hearing at 6:31 p.m.

Christine Bond - 35 Vista Court, Richland, WA: Ms. Bond stated that she collected approximately 150 signatures from individuals who support a request for the City to install a pass-through in the sound barrier directly across Airport Way on the east side of SR-240.

Laila Krowiak - 1523 Hains Avenue, Richland, WA: Ms. Krowiak appealed to the City to decrease the default speed limit to 20 mph and to prioritize traffic calming designs and active transportation safety over automobile convenience. Ms. Krowiak stated her support of all projects in the TIP that support evidence-based active transportation safety and connectivity.

Mayor Lukson closed the public hearing at 6:35 p.m.

Public Comments

The following individuals submitted comments to be read aloud by the City Clerk:

Dori Luzzo Gilmour - 2051 Howell Avenue, Richland, WA: Ms. Luzzo Gilmour requested the Richland Police Department enforce the speed limits as children will be navigating their way to schools for summer school.

Francesca Maier - 2146 Hudson Avenue, Richland, WA: Ms. Maier outlined her opposition to the adoption of Resolution No. 77-21 supporting application of a grant from the Bureau of Justice for body-worn cameras.

Kurt Maier - 2146 Hudson Avenue, Richland, WA: Mr. Maier provided statements suggesting the Richland Police Department make more varied use of the proposed body-worn cameras other than as a records requirement, and suggested transparent deployment of the devices to build trust with the community.

Alexis Painter - 81 Newcomer Street, Richland, WA: Ms. Painter stated concerns over the increased traffic speeds on Newcomer, Davison and Harris to Leslie Groves Park. Ms. Painter suggested adding speed limit signs on Newcomer.

Nancy Stratton - 650 George Washington Way, Richland, WA: Ms. Stratton stated concerns relating to a homeless individual who appears to be residing in Howard Amon

Park. Ms. Stratton requested that the City enforce its *No Camping* rules and address the camping issue immediately.

The following individuals registered to provide comments telephonically:

Maureen Anderson - 202 Barth Avenue, Richland, WA: Ms. Anderson shared that her husband is employed as a lineman with the City of Richland. Ms. Anderson stated that the line crew has been working extended hours in the absence of an approved labor contract, and requested that Council review the proposed contract and offer a competitive salary.

Shelby Covert - 195 Bitterroot Drive, Richland, WA: Ms. Covert stated that the Richland line crew is understaffed, have been working without an approved labor contract, and are the second lowest paid line crew in Washington. Ms. Covert urged Council to work to resolve labor issues before it becomes a crisis.

Councilmember Thompson called on City Attorney Kintzley to provide clarification regarding Council's role in responding to citizen statements related to pending labor negotiations. City Attorney Kintzley advised that each party has a designated labor representative, and that all bargaining is to occur through that designated representative.

Ziad Elsayhili - 17933 NE Evergreen Parkway, Beaverton, OR: Mr. Elsayhili, President of Fortify Holdings, LLC, expressed enthusiasm for the opportunity to invest in the Richland community.

Katie Mills - 245 Van Giesen Street, Richland, WA: Ms. Mills spoke favorably of the work performed by Richland's line crew and advocated for higher wages. Ms. Mills also stated that COVID funding should be allocated for essential employees such as linemen.

Connie Pattison - 419 George Washington Way, Richland, WA: Ms. Pattison stated her support for Richland's line crew and advocated for a wage increase for employee retention. Ms. Pattison suggested the City draw on the \$7.3M provided by the American Rescue Plan Act of 2021 (ARPA) to rebuild the community and support the City's economy by increasing line crew wages to support local jobs. Ms. Pattison questioned the City's ability to award multi-million-dollar contracts to upgrade the electrical system yet failing, in her opinion, to provide a competitive salary for the Richland line crew.

Colleen Somes - 562 Sedgwick Place, Richland, WA: Ms. Somes asked how pre-budged funds for linemen who have left city employment are being utilized. Ms. Somes also asked how the \$7.3M in ARPA funds are being allocated.

Tiffany Suarez - 680 Big Sky Drive, Richland, WA: Ms. Suarez announced that her husband, who is employed as a lineman for the City, has been working without a labor contract for several months. Ms. Suarez stated that other surrounding agencies pay their linemen higher wages, and added that the City will be left short-staffed if linemen resign to pursue a competitive wage elsewhere. Ms. Suarez advocated for higher wages for the

linemen.

Consent Calendar

City Clerk Rogers read the Consent Calendar.

COUNCILMEMBER CHRISTENSEN MOVED AND COUNCILMEMBER BORING SECONDED THE MOTION TO APPROVE THE CONSENT AGENDA AS PUBLISHED. THOSE IN FAVOR: MAYOR LUKSON, MAYOR PRO TEM KENT, AND COUNCILMEMBERS ALVAREZ, BORING, CHRISTENSEN, LEMLEY AND THOMPSON. THOSE OPPOSED: NONE. THE MOTION CARRIED 7-0.

Minutes

3. Approval of the June 1, 2021 Regular Council Meeting Minutes

Ordinances - First Reading

4. Ordinance No. 16-21, Amending Chapter 22.10 of the Richland Municipal Code Related to Critical Areas
5. Ordinance No. 17-21, Amending Chapter 23.70 of the Richland Municipal Code Related to Administration, Enforcement and Amendment

Ordinances - Second Reading & Passage

6. Ordinance No. 14-21, Amending the 2021 Budget in the General Fund, Public Safety Facilities 73 & 75 Construction Funds, Streets Capital Fund, Capital Improvement Fund, Industrial Development Fund, and Broadband Fund

Resolutions – Adoption

7. Resolution No. 65-21, Amending the Design-Build Agreement with DGR Grant Construction for Public Safety Response Stations 73 & 75
8. Resolution No. 67-21, Adopting the 2022-2027 Transportation Improvement Program
9. Resolution No. 69-21, Approving the Final Plat of West Vineyard - Phase 2
10. Resolution No. 70-21, Awarding Commercial Façade Improvement Program Funding
11. Resolution No. 71-21, Authorizing a Consultant Agreement with Parametrix, Inc. for Phase 2 of the Horn Rapids Landfill Closure
12. Resolution No. 73-21, Setting a Meeting Date to Review a Proposed Annexation (Badger Mountain Estates)

13. Resolution No. 74-21, Authorizing Award of Bid to Magnum Power, LLC for Construction of the Gateway Substation
14. Resolution No. 75-21, Authorizing Award of Bid to Magnum Power, LLC for the 2021 Overhead Pole and Conductor Replacement Project
15. Resolution No. 78-21, Authorizing Award of Business License Reserve Funds

Items - Approval

None.

Expenditures – Approval

Expenditures from May 1, 2021 to May 31, 2021 for \$42,097,189.31, including Travel Check Nos. 19993-19996, Accounts Payable Check Nos. 289641-290505, Accounts Payable Wire Nos. 8557-8608, Payroll Wires & ACH Nos. 12096-12142, Payroll Direct Deposit & Check Nos. 178712-179810 and Pension Check Nos. 5833-5860.

Items of Business

1. Resolution No. 77-21, Authorizing a Bureau of Justice Assistance Grant Application for Body-Worn Cameras

Chief of Police Bruce provided an overview of the grant application, which requires a 50% percent (50%) cash or in-kind match up to \$2,000 per device to include hardware, software and training for 68 commissioned staff. Application for this grant will assist with complying with HB 1233 - Uniform Electronic Recordation of Custodial Interrogations, effective January 1, 2022.

Chief Bruce engaged in a question and answer session with Council.

COUNCILMEMBER CHRISTENSEN MOVED AND COUNCILMEMBER THOMPSON SECONDED THE MOTION TO ADOPT RESOLUTION NO. 77-21, AUTHORIZING A BUREAU OF JUSTICE ASSISTANCE GRANT APPLICATION FOR BODY-WORN CAMERAS. THE MOTION CARRIED 7-0.

There was a brief discussion regarding a potential regional approach to combining funds to purchase a larger quantity of devices. Chief of Police Bruce confirmed that there have been conversations to submit a regional application for the grant in hopes of receiving increased funding.

2. Ordinance No. 13-21, Amending Richland Municipal Code Section 23.22.040 related to Site Requirements and Development Standards for Minimum Dwelling Unit Requirements in the Central Business District

Mayor Lukson identified that Council had already engaged in a robust discussion related

to approval of Ordinance No. 13-21 for first reading. Councilmember Christensen and Councilmember Boring reiterated their positions regarding opposition to Ordinance No. 13-21.

COUNCILMEMBER THOMPSON MOVED AND COUNCILMEMBER LEMLEY SECONDED THE MOTION TO APPROVE FOR SECOND READING AND PASS ORDINANCE NO. 13-21, AMENDING RICHLAND MUNICIPAL CODE SECTION 23.22.040 RELATED TO SITE REQUIREMENTS AND DEVELOPMENT STANDARDS FOR MINIMUM DWELLING UNIT REQUIREMENTS IN THE CENTRAL BUSINESS DISTRICT. THOSE IN FAVOR: MAYOR LUKSON, MAYOR PRO TEM KENT, AND COUNCILMEMBERS ALVAREZ, LEMLEY AND THOMPSON. THOSE OPPOSED: COUNCILMEMBERS BORING AND CHRISTENSEN. THE MOTION CARRIED 5-2.

Reports and Comments

City Manager

Interim City Manager Amundson announced Mike Charbonneau's retirement and congratulated him on his last City Council meeting. Mr. Charboneau has been a part of CityView TV for twenty-two (22) years. His retirement will be recognized later in the month. Interim City Manager Amundson also thanked crews for responding to the water leak and power outage occurring over the weekend of June 12-13, 2021.

Interim City Manager Amundson recommended Council hold a closed session immediately after the end of the meeting.

Lastly, Interim City Manager Amundson advised that the City would explore resuming in-person meetings once Governor Inslee releases additional guidance on the topic.

City Council

Council thanked Mike Charboneau for his years of committed service to the City and added that he will be greatly missed.

Councilmember Thompson shared personal observations regarding Council's role in labor negotiations.

Councilmember Alvarez reiterated that Council is limited on what can be said publicly regarding labor negotiations, and thanked the public for their comments.

Councilmember Christensen announced that Governor Inslee will visit the Tri-Cities, and inquired whether Mayor Lukson or Interim City Manager Amundson received an invitation to meet with him. Mayor Lukson replied that he and Councilmember Thompson will meet Governor Inslee, along with other mayors and county commissioners, to discuss issues with the Department of Ecology and Department of Energy.

Councilmember Thompson added that in addition to the meeting confirmed by Mayor Lukson, the Department of Energy will host a meeting in which the Department of Ecology will address issues and concerns of the Tri-Cities, and possibly Payments in Lieu of Taxes (PILT).

Councilmember Christensen inquired whether the Richland Public Facilities District still hold meetings. Councilmember Lemley replied that the Richland PFD meets each month, while the Regional Public Facilities District has not met in over one year. Mayor Lukson directed Interim City Manager Amundson to contact Pasco City Manager Zabell for an update on the Regional PFD's proposed waterpark and the direction of the organization.

Councilmember Christensen inquired whether Ben Franklin Transit has discussed reallocating transit funding to a mental health facility. Councilmember Lemley provided a detailed response. Mayor Lukson instructed Interim City Manager Amundson to collect additional information for a future workshop discussion.

Councilmember Boring announced that the Mosquito Control District recently conducted an aerial spray. Councilmember Boring then thanked the public for their comments, and staff for being well-prepared to provide responses when called upon.

Mayor Pro Tem Kent thanked Councilmember Thompson for calling on City Attorney Kintzley to provide clarification on Council's role in labor negotiations. Mayor Pro Tem Kent also commended everyone for keeping the discussions professional.

Mayor Lukson

Mayor Lukson voiced frustrations with labor negotiations as Council is limited on what can be said publicly. He added that Richland's line crew are greatly appreciated, and hopes a resolution will be reached in the near future.

Mayor Lukson announced that he received correspondence from Senator Cantwell regarding PILT and shared the contents of the letter. Lastly, Mayor Lukson announced that he received a phone call from a Richland School District Board Member regarding the impacts the absence of PILT funds will create.

Adjournment

Mayor Lukson adjourned the meeting at 7:55 p.m.

APPROVED:

ATTEST:

Ryan Lukson, Mayor

Jennifer Rogers, City Clerk

DATE APPROVED:

DATE PUBLISHED:



MINUTES

RICHLAND CITY COUNCIL REGULAR WORKSHOP MEETING

Tuesday, June 22, 2021

Zoom - Public Telephone Access: (206) 337-9723 or (253) 215-8782

Meeting ID No. 505 625 7380

City Council Regular Workshop - 6:00 p.m. via Zoom

Mayor Lukson called the City Council workshop meeting to order at 6:00 p.m.

Attendance: Mayor Lukson, Mayor Pro Tem Kent, and Councilmembers Alvarez, Boring, Christensen and Lemley. Councilmember Thompson was absent.

Also attending remotely were Interim City Manager Amundson, Fire Chief Huntington, City Attorney Kintzley, Administrative Services Director Koch, Parks & Public Facilities Director Schiessl, Energy Services Director Whitney, Public Works Director Rogalsky and City Clerk Rogers.

Agenda Items

1. E-Scooter Update

Parks & Public Facilities Director Schiessl announced that the Parks & Recreation Commission has been reviewing state law and speed limits in communities where e-scooters and e-bikes are permitted and regulated.

The Parks & Recreation Commission solicited public comment on the issue of e-bikes, and a variety of responses were received. The Parks & Recreation Commission will continue the discussion and produce a recommendation for Council consideration specific to e-bike usage in Richland.

A separate but related topic is the private provision of e-scooters for rent as a transportation option in Richland.

Parks & Public Facilities Director Schiessl introduced Michael Novakovich, Visit Tri-Cities President & CEO, to present an overview of a potential regional program, managed by Visit Tri-Cities, for e-scooters in Richland, Kennewick and Pasco. The e-scooter implementation plan would include a pilot program followed by an evaluation to determine if there is interest in permanent implementation.

Parks & Public Facilities Director Schiessl and Mr. Novakovich engaged in a question and answer session with Council throughout the presentation.

Mayor Lukson stated that, based on Council comments, there appears to be sufficient support to pursue implementation of a pilot program if executed correctly. Mayor Lukson added that he would be interested in receiving updates as Mr. Novakovich gathers additional feedback from citizens and neighboring communities.

2. Wheeled All-Terrain Vehicles (WATVs) Update

Public Works Director Rogalsky delivered a brief follow-up on the topic, to include the results of a recent online survey hosted by the Communications & Marketing division. 307 individuals responded to the survey. Of those 307 people, 71% support the use of WATVs on city streets.

Public Works Director Rogalsky presented a list of streets where WATVs would not be allowed due to the existing posted speed limit greater than 35 mph, and also identified additional streets where WATV use would be incompatible. Public Works Director Rogalsky then discussed the possible city-specific requirements and expectations to be implemented if Council desires to move forward with allowing WATVs on public streets.

Public Works Director Rogalsky, City Attorney Kintzley and Chief of Police Bruce responded to Council inquiries throughout the presentation. Based on comments made by Council, City Attorney Kintzley clarified that staff has no position for or against adoption of an ordinance allowing WATVs, and brought a recommendation related to acceptable streets in the event Council directs staff to move forward with preparing an ordinance for adoption.

Following Council discussion, there was consensus among Council to proceed. Staff will present an ordinance for Council adoption at a future meeting.

Before relinquishing the floor, Public Works Director Rogalsky provided Council with an update on the recent planned outage of the irrigation system to repair a water leak in the primary pipeline located in Horn Rapids. Public Works Director Rogalsky commended staff for completing the repairs ahead of schedule.

3. Review of 2022 Budget Process

Administrative Services Director Koch provided a high-level overview of the tentative schedule for the 2022 Budget process. During the presentation, Administrative Services Director Koch also touched on local impacts to the budget, a possible Washington State minimum wage increase, contributions to the Washington State Department of Retirement Systems (DRS), American Rescue Plan Act (ARPA) funds (\$7.3M), budget and operational impacts from the Healthy Families Act, and a timeline to adopt a biennial budget.

Administrative Services Director Koch engaged in a question and answer session with Council throughout the presentation.

At the close of the meeting, Interim City Manager Amundson announced that the Richland Regatta will return to Howard Amon Park this weekend (June 26-27), and shared that Governor Inslee's Office has yet to release open public meeting guidance for the state-wide reopening on June 30, 2021.

Adjournment

Mayor Lukson adjourned the meeting at 7:20 p.m.

APPROVED:

ATTEST:

Ryan Lukson, Mayor

Jennifer Rogers, City Clerk

DATE APPROVED:

DATE PUBLISHED:

DRAFT



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Ordinances - Second Reading & Passage

Core Focus Area I - Promote Financial Stability & Operational Effectiveness

Subject:

Ordinance No. 16-21, Amending Chapter 22.10 of the Richland Municipal Code related to Critical Areas

Department:

Development Services

Ordinance/Resolution Number:

16-21

Document Type:

Ordinance

Recommended Motion:

Give second reading and pass Ordinance No. 16-21, amending Chapter 22.10 of the Richland Municipal Code related to critical areas.

Summary:

The City of Richland planning staff is proposing a text amendment to RMC Chapter 22.10 Critical Areas: Article I – General Information; Article II Definitions; Article VI – Critical Aquifer Recharge Areas Program; and Article VII General Information. The amendment is comprised of minor changes to incorporate comments received from the Washington State Department of Health including current standards, word choice, and terminology.

This update is necessary to improve the review of Critical Aquifer Recharge Areas (CARAs), to improve permitting processes and procedures, to ensure compliance with state laws, and also to aid in reducing City risk.

Portions of Chapter 22.10 were last revised upon the adoption and codification of Ordinances Nos. 40-17A, 59-19, and 63-19. Those ordinances enacted previous changes such as amendments processed pursuant to the Growth Management Act's periodic update schedule.

The Planning Commission conducted a public hearing on the proposed text amendments on May 26, 2021, and voted unanimously to recommend approval of the proposed text amendments to City Council.

Staff recommends approval of Ordinance No. 16-21 for second reading and passage.

Fiscal Impact:

None.

Attachments:

- I. Ordinance No. 16-21

ORDINANCE NO. 16-21

AN ORDINANCE of the City of Richland amending Chapter 22.10 of the Richland Municipal Code related to critical areas.

WHEREAS, the City has need, from time to time, to update the Richland Municipal Code (RMC) to eliminate ambiguities or to come into compliance with state or federal law; and

WHEREAS, the subject matter experts from the Department of Health recently provided recommended edits to the City's existing critical areas regulations to ensure compliance with state law; and

WHEREAS, the best interests of the City and its citizens are served by implementing the recommendations from the Department of Health.

NOW, THEREFORE, BE IT ORDAINED by the City of Richland as follows:

Section 1. Chapter 22.10 of the Richland Municipal Code, entitled Critical Areas, as first enacted by Ordinance No. 48-93, and last amended by Ordinance No. 63-19, is hereby amended as follows:

Chapter 22.10 CRITICAL AREAS

Sections:

Article I. General Introduction

- 22.10.010 General purpose and intent.**
- 22.10.020 General applicability of these regulations.**
- 22.10.030 General relationship of regulations of one type of critical area protection to other regulations.**

Article II. Definitions

- 22.10.040 Definitions.**

Article III. Wetlands

- 22.10.050 Reserved.**
- 22.10.060 Reserved.**
- 22.10.070 Regulated activities in wetlands.**
- 22.10.080 Exemptions and allowed uses in wetlands.**
- 22.10.090 Wetland inventory maps.**
- 22.10.100 Rating – Categories of wetland.**

- 22.10.110 Wetland buffer areas.
- 22.10.115 Buffer modifications.
- 22.10.120 Wetland alteration and mitigation.
- 22.10.125 Stormwater runoff.
- 22.10.130 Mitigation standards, criteria, and plan requirements.
- 22.10.140 Wetland mitigation plan requirements.
- 22.10.150 Design standards for wetlands mitigation planning.
- 22.10.160 Wetland monitoring program and contingency plan.

Article IV. Fish and Wildlife Habitat Conservation Areas

- 22.10.170 Reserved.
- 22.10.180 Exemption from fish and wildlife habitat conservation area regulations.
- 22.10.185 Fish and wildlife habitat conservation areas.
- 22.10.190 Fish and wildlife habitat conservation area inventory maps.
- 22.10.200 Requirements for habitat conservation area reports.
- 22.10.210 Fish and wildlife habitat conservation area – Performance standards.
- 22.10.220 Fish and wildlife habitat conservation area alteration.
- 22.10.230 Repealed.

Article V. Geologically Hazardous Areas

- 22.10.240 Identification and definition.
- 22.10.250 Applicability to geologically hazardous areas.
- 22.10.260 Geologically hazardous area inventory maps.
- 22.10.270 Preliminary assessment.
- 22.10.280 Geologic reports and studies.
- 22.10.290 Administrative evaluation of geologic reports and studies.
- 22.10.295 Assurance.

Article VI. Critical Aquifer Recharge Areas Protection

- 22.10.300 Identification and definition.
- 22.10.310 Critical aquifer recharge area maps.
- 22.10.320 Exemptions from critical aquifer recharge area regulations.
- 22.10.330 Reports and studies.
- 22.10.340 Performance standards.
- 22.10.350 Uses prohibited in critical aquifer recharge areas.

Article VII. General Standards Information

- 22.10.360 General exemptions.
- 22.10.370 Permit process and application requirements.
- 22.10.380 Requirements of qualified professional.
- 22.10.385 Notice on title.
- 22.10.390 Land divisions.

- 22.10.400 On-site density transfer for critical areas.
- 22.10.405 Density bonus for increased buffers.
- 22.10.410 Interpretations and appeals.
- 22.10.415 Penalties.
- 22.10.420 General savings provision – Reasonable [economic](#) use.
- 22.10.430 No special duty created.
- 22.10.435 Unauthorized alterations and enforcement.
- 22.10.440 Severability.
- 22.10.450 Critical area map.

Article I. General Introduction

22.10.010 General purpose and intent.

A. Critical areas perform many important biological and physical functions and values that benefit the city of Richland and its residents. These functions include, but are not limited to, the following (by type):

(1.) ~~w~~[W](#)etlands: helping to maintain water quality; storing and conveying stormwater and floodwater; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; providing important wildlife habitat providing food, breeding, nesting and/or rearing habitat for fish and wildlife; improving water quality through biofiltration, adsorption and retention and transformation of sediments, nutrients and toxicants and serving as areas for recreation, educational and scientific study, and aesthetic appreciation; such beneficial functions are widely known as ecosystem services. ~~;~~[and](#)

(2.) ~~f~~[F](#)ish and wildlife habitat conservation areas: maintaining species diversity and genetic diversity of local flora and fauna; providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife; serving as areas for recreation, educational and scientific study and aesthetic appreciation; helping to maintain air and water quality; controlling erosion; and providing neighborhood separation and visual diversity within urban areas.

(3.) ~~In addition, c~~[C](#)ertain portions of the city of Richland are characterized by geologically hazardous areas that pose a risk to public and private property, to human life and safety and to the natural systems that make up the environment of the city of Richland. These lands are affected by natural processes that make them susceptible to landslides, seismic activity, and/or severe erosion. The city of Richland maintains that protection of critical areas is necessary to protect the public health, safety, and welfare.

(4.) ~~In addition, c~~[C](#)ertain portions of the city are located within critical aquifer recharge areas whose potential contamination poses a risk to public health and safety. These lands are susceptible to the degradation of ground water quality and quantity that could potentially impact potable water systems.

~~(5.)~~ Certain portions of the city are subject to frequent flooding. Areas that are subject to flooding perform important hydrologic functions and may present risks to persons and property. Floodplains are regulated by the city ~~in~~ under Chapter 22.16 RMC.

B. This chapter contains standards, guidelines, criteria and requirements intended to identify, analyze, avoid and mitigate probable impacts to the city of Richland's critical areas and to enhance and restore them when possible. The intent of these regulations is to protect ecological functions, and to avoid environmental impacts where such avoidance is feasible and reasonable. In appropriate circumstances, impacts to critical areas that result from regulated activities may be minimized, rectified, reduced and/or compensated for, consistent with the requirements of this chapter. The city of Richland's goal shall be to achieve no net loss of wetlands and to avoid probable impacts, to the extent practical, to other critical areas.

C. It is the intent of this chapter to:

1. Implement the goals and policies of the city of Richland's comprehensive plan, including those goals and policies that pertain to natural features and environmental protection;
2. Recognize and protect the beneficial functions of critical areas through the application of the most current, accurate, and complete scientific or technical information available as determined according to Chapter 365-195 WAC (Best Available Science) and in consultation with state and federal agencies and other qualified professionals and integrate the full spectrum of state, tribal, and federal programs;
3. Serve as a basis for exercise of the city of Richland's substantive authority under the State Environmental Policy Act (SEPA) and the city of Richland's SEPA rules;
4. Comply with the requirements of the Growth Management Act (Chapter 36.70A RCW) and implementing rules; and
5. Coordinate environmental review and permitting of proposals to avoid duplication and delay.

D. The city of Richland further notes that Benton County, the U.S. ~~Department of~~ Fish and Wildlife Service and, ~~the U.S.~~ Department of Energy, and the Washington State Departments of Fish and Wildlife, ~~and the Washington State Department of~~ Ecology, and Health have identified and mapped some portions of the city of Richland – based on topographic, geologic, hydrologic, and habitat characteristics – where the conditions indicate that critical areas or geologic hazards may exist. Additional study and mapping are needed to verify that such conditions do prevail and are needed to identify other areas that are potentially critical areas. Mapping will enable the city of Richland to provide notice of the potential presence of critical areas or the risks associated with developing lands subject to geologically hazardous areas to the public. It should be noted that the

boundaries of the critical areas and geologically hazardous areas displayed on these maps are approximate and are not intended to be used for individual site assessment. When differences occur between what is illustrated on these maps and current site conditions, the actual presence or absence of environmentally critical areas or geologically hazardous areas on the site shall determine the action to be taken.

E. Compliance with the provisions of this chapter does not constitute compliance with other federal, state and local regulations. Other permits, including but not limited to HPA permits, Army Corps of Engineers Section 404 permits, and/or NPDES permits, may be required. It is the responsibility of the applicant to comply with other requirements apart from the provisions of this chapter.

22.10.020 General applicability of these regulations.

A. The provisions of these regulations shall apply to any activity that affects critical areas or their established buffers unless otherwise exempt.

B. To avoid duplication, the following permits and approvals shall be subject to and coordinated with the requirements of these regulations: grading; subdivision or short subdivision; building permit; planned unit development; shoreline substantial development; variance; special use permits; and other permits leading to the development or alteration of land. The city shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement in, over or on a critical area or associated buffer, without first assuring compliance with the requirements of this chapter.

22.10.030 General relationship of regulations of one type of critical area protection to other regulations.

These [critical area](#) regulations shall apply as an overlay and in addition to zoning, land use and other regulations, ~~including critical areas regulations~~, established by the city of Richland. The provisions of this chapter apply whether or not a permit or other type of city approval is being sought.

Areas characterized as critical may also be subject to other regulations established by this chapter due to the overlap or multiple functions of some sensitive or critical areas. For example, some landslide hazard areas (e.g., steep slopes) adjacent to wetlands may be regulated by buffering requirements according to the wetland management provisions of this chapter. Wetlands may be defined and regulated according to the wetland section and habitat management provisions of this chapter. In the event of any conflict among regulations in this chapter or with any other regulations of the city of Richland for a particular critical area, those regulations that provide greater protection to the critical area shall apply.

Article II. Definitions

22.10.040 Definitions.

For purposes of this chapter, the following definitions shall apply:

“Adjacent” shall mean any activity located:

- A. On a site immediately adjoining a critical area;
- B. A distance equal to or less than the required critical area buffer width and building setback, or, where the buffer width has yet to be determined, a distance equal to a buffer and setback that would typically be required for the present habitat or species;
- C. A distance equal to or less than 250 feet* from a stream, wetland, channel migration zone or water body;
- D. Within the floodway or floodplain; or
- E. A distance equal to or less than 200 feet** from a critical aquifer recharge area.

“Administrator” means such person as the city manager of the city of Richland shall designate to administer and enforce the provisions of this title.

“Agricultural activities, existing and ongoing” includes those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities that bring a previously nonagricultural area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted is proposed for conversion to a nonagricultural use or has lain idle for a period of longer than five years, unless the idle land is registered in a federal or state soils conservation program.

“Applicant” means the person, party, firm, partnership, corporation, or other entity that proposes any activity that could affect a critical area.

“Best available science” means current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925.

“Best management practices (BMPs)” are current and evolving conservation practices, or systems of practices, management or operational measures, or design and construction techniques; or normal and accepted industry standards that are applied to land use activity in a manner which:

- A. Controls soil loss and reduces water surface and ground water quality degradation caused by nutrients, wastes, toxics, and sediment;
- B. Minimizes and mitigates adverse impacts to the natural chemical, physical and biological environment of the city;

C. Utilizes the city's natural resources on a long-term, sustainable yield basis;

D. Protects trees, vegetation, and soils designated to be retained during and following site construction and use native plant species appropriate to the site for revegetation of disturbed areas; and

E. Prevents contamination of surface and ground water resources, and protects from impacts to native and other desirable vegetation with BMPs for chemical pesticide, herbicide, and fertilizer applications.

"Buffer" means an area adjacent to a critical area that functions to avoid loss or diminution of the ecologic functions and values of the critical area. Specifically, a buffer may:

A. Preserve the ecologic functions and values of a system including, but not limited to, providing microclimate conditions, shading, input of organic material, and sediments; room for variation and changes in natural wetland, river, or stream characteristics; providing for habitat for life cycle stages of species normally associated with the resource;

B. Physically isolate a critical area such as a wetland, river, or stream from potential disturbance and harmful intrusion from surrounding uses using distance, height, visual, and/or sound barriers, and generally including dense native vegetation, but also may include human-made features such as wildlife friendly fences and other barriers; and

C. Act to minimize risk to the public from loss of life, well-being, or property damage resulting from natural disasters such as from landslide or flooding.

"Channel migration zone" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. For the purpose of this chapter, the channel migration zone excludes areas separated from the active river channel by legally existing artificial structures that are likely to restrain channel migration, including, but not limited to, flood control facilities, transportation facilities, and structures built above or constructed to remain intact through the 100-year flood.

"Clearing" means the removal of trees, brush, grass, ground cover, or other vegetative matter from a site which exposes the earth's surface of the site.

"Creation" (wetland) means the manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage [and function]. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

"Critical aquifer recharge areas" are areas with a critical recharging effect on aquifers

~~needed~~ used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water or is susceptible to reduced recharge.

“Critical areas” are areas ~~defined~~ listed in RCW 36.70A.030(5) including any of the following areas or ecosystems: wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas and geologically hazardous areas.

“Earth/earth material” means naturally occurring rock, soil, stone, sediment, or combination thereof.

“Enhancement” (habitats in general) means the improvement of existing habitat such as by increasing plant density or structural diversity, or by removing nonindigenous or noxious species.

“Enhancement” (wetlands) means the manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. [Examples are planting vegetation, controlling nonnative or invasive species, and modifying site elevations to alter hydroperiods.] Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

“Erosion” means wearing away of rock or soil by the gradual detachment of soil and rock fragments by water, wind, ice, or gravity, ~~and other mechanical and chemical forces~~.

“Erosion hazard areas” are areas identified by the United States Department of Agriculture Soil Conservation Service as having a severe rill and inter-rill erosion hazard.

“Excavation” means the mechanical removal of earth material.

“Federal manual” or “federal methodology” means the methodology for identifying wetlands in the field as described in the current Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

“Fill” means earth or any other substance or material placed in or on the ground, including earth-retaining structures. In wetlands, it includes any action that raises the elevation or creates dry land.

“Filling” means the act of transporting or placing (by any manner or mechanism) fill material from, to, or on any soil surface, sediment surface, or other fill material.

“Fish and wildlife habitat conservation area” means areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range and movement corridors; and areas with high relative population density or species richness. “Fish and wildlife habitat conservation areas” does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.

“Frequently flooded areas” are lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year or within areas subject to flooding due to high ground water. These areas include, but are not limited to, streams, rivers, and wetland areas where high ground water ponds on the ground surface.

“Functions and values” means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; ground water recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological and aesthetic value protection; educational opportunities and recreation.

“Geologically hazardous areas” are areas that because of their susceptibility to erosion, sliding, earthquakes or other geological events are not suited to siting commercial, residential or industrial development consistent with public health or safety concerns.

“Grading” means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

“Habitat management” means management of land to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not imply maintaining all habitat or individuals of all species in all cases.

“High impact land use” means land uses that are generally associated with relatively high levels of human activity or disturbance, development of structures, or substantial wetland habitat impacts. Depending on their context, high impact land uses can include, but are not limited to, residential buildings and structures, active recreation areas and facilities, commercial and industrial land uses, buildings and structures, and similar uses and activities which create a significant potential for impacts to wetlands. The context for determining the impact of a land use includes the sensitivity of the wetland, the density and intensity of adjacent development, the amount of impervious surface, the orientation of proposed buildings and structures and other relevant factors as determined in an individual case.

“In-kind mitigation” means replacement of wetlands with substitute wetlands whose

characteristics closely approximate those destroyed or degraded by a regulated activity.

“Isolated wetlands” means those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

“Landslide hazard areas” are areas that are potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Landslide hazard areas include, but are not limited to, the following types of areas:

A. Areas delineated by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development;

B. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources;

C. Areas with all three of the following characteristics:

1. Areas with slope steeper than 15 percent;
2. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
3. Springs or ground water seepage;

D. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of that epoch;

E. Areas with slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

F. Areas with slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking;

G. Areas potentially unstable as a result of rapid stream incision, stream bank erosion and undercutting by wave action;

H. Areas that show evidence of, or on, an active alluvial fan presently or potentially subject to inundation by debris flows or catastrophic flooding; or

I. Areas with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

“Low impact land use” means land uses that are typically associated with relatively low levels of human activity, disturbance or development and that are conducted in a manner as to minimize impacts to the buffer. Low impact land uses may include:

- A. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife;
- B. Passive recreation, including walkways or trails located in the outer 25 percent of the buffer area;
- C. Educational and scientific research activities, provided prior approval is obtained from the approval authority;
- D. Normal and routine maintenance and repair of any existing public or private facilities, provided appropriate measures are undertaken to minimize impacts to the wetland and its buffer and that disturbed areas are restored immediately to a natural condition; or
- E. Agricultural land uses that do not create a probable wetland impact.

“Mitigation” means a series of prioritized actions that when achieved in full ensures project impacts will result in no net loss of habitat value or fish and wildlife populations.

“Mitigation” involves actions that proceed in sequence from the highest to the lowest priority as follows:

- A. Avoiding impacts to **environmentally** critical areas by not taking action or parts of actions.
- B. Minimizing impact by limiting the degree or magnitude of the action and its implementation.
- C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- E. Compensating for the impact by replacing or providing substitute resources or environments.

While monitoring alone is not considered mitigation for purposes of these regulations, it may be part of a comprehensive mitigation program.

- F. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

“Native vegetation” means vegetation indigenous to the area in question.

“Preservation” (wetlands) means the removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres [but may result in a gain in functions over the long term].

“Priority habitat” means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- A. Comparatively high fish or wildlife density;
- B. Comparatively high fish or wildlife species diversity;
- C. Fish spawning habitat;
- D. Important wildlife habitat;
- E. Important fish or wildlife seasonal range;
- F. Important fish or wildlife movement corridor;
- G. Rearing and foraging habitat;
- H. Important marine mammal haul-out;
- I. Refugia habitat;
- J. Limited availability;
- K. High vulnerability to habitat alteration;
- L. Unique or dependent species; or
- M. Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows or shrub steppe habitat). A priority habitat may also be described by a successional stage (such as old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

“Priority habitat and species list” means a list published by the Washington Department of Fish and Wildlife, which is a catalog of habitats and species considered to be priorities

for conservation and management. Priority species require protective measures for their survival due to their population status, sensitivity to habitat alteration, and/or recreational, commercial or tribal importance. Priority species include state endangered, threatened, sensitive and candidate species; animal aggregations (e.g., heron colonies, bat colonies) considered vulnerable; and species of recreational, commercial or tribal importance that are vulnerable. Priority habitats are habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type (e.g., shrub-steppe) or dominant plant species (e.g., juniper savannah), a described successional stage (e.g., old-growth forest) or a specific habitat feature (e.g., cliffs).

“Priority habitat and species map” means maps of plant cover types/communities. Considered by Washington State Department of Fish and Wildlife to contain priority habitat or wildlife species. PHS is a source of best available science that informs local planning activities and land use applications.

“Qualified professional,” for the purpose of these regulations, shall mean a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, ecology, engineering, environmental studies, fisheries, geomorphology, or related field, and two years of related work experience.

A. A qualified professional for habitats or wetlands must have a degree in biology, ecology or related field and professional experience related to the subject species. A “qualified wetland specialist” is further defined below.

B. A qualified professional for a geological hazard must be a geotechnical engineer or geologist, licensed in the state of Washington.

C. A qualified professional for critical aquifer recharge areas must be a currently licensed Washington State geologist holding a current specialty license in hydrology. ~~means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.~~

“Qualified wetland specialist” means a person or firm with experience and training in wetland issues, and with experience in performing delineations, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:

A. A Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, ecology, environmental studies, fisheries, soil science, wildlife or related field, and two years of related work experience, including a minimum of one year of experience delineating wetlands using the Federal Delineation Manual preparing wetland reports. Additional education may substitute for one year of related work experience; or

B. Four years of related work experience and training, with a minimum of two years’

experience delineating wetlands with the Federal Delineation Manual and preparing wetland reports.

“Reestablishment” means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Reestablishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.

“Regulated activity” means activities generally including, but not limited to, filling, dredging, dumping, stockpiling, draining, excavation, flooding, construction or reconstruction, driving pilings, obstructing, shading, clearing or harvesting, or any other activity that may impact the functions and values of the nearby critical area as determined by the administrator.

“Rehabilitation” (wetland) means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions [and processes] of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. [Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.]

“Restore,” “restoration” or “ecological restoration” means the reestablishment or upgrading of impaired natural or enhanced ecological processes or functions. This may be accomplished through measures including but not limited to revegetation, removal of intrusive structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the area to pre-Columbia Basin Project, aboriginal or pre-European settlement conditions.

“Riparian ecosystem” means the area alongside a water body that significantly influences exchanges of energy and matter among terrestrial and aquatic ecosystems. Along streams and rivers, it includes the active channel, channel migration zone, floodplain, and portions of the adjacent uplands that contribute organic matter and shade, provide space for nutrient cycling, and keep pollutants from entering the stream.

“Riparian management zone” (RMZ) means the fish and wildlife habitat conservation area adjacent to all rivers and streams delineated to protect riparian ecosystem functions and values. Its inner point of measure is the wider of (A) the ordinary high water mark or (B) the outer extent of the channel migration zone. Its width is the greater of (A) 100 feet, (B) one site-potential tree height of a 200-year old tree, and (C) the width needed to reliably remove pollutants as determined through a habitat conservation report.

“Seismic hazard areas” are areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by: (A) magnitude of an earthquake; (B) distance from the source of an earthquake; (C) type of thickness of

geologic materials at the surface; and (D) type of subsurface geologic structure.

“Site” means any parcel or combination of contiguous parcels where the proposed project impacts a wetland(s) or other critical area.

“Site-potential tree height” (SPTH) means the average maximum height of the tallest dominant trees (200 years or more) for a given site class. For most of the city of Richland, soils do not support trees that grow in excess of 100 feet. For the few sites that may grow trees taller than 100 feet, SPTH is determined through a habitat conservation report.

“Slope” means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.

“Stormwater” means runoff during and following precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features of a stormwater drainage system into a defined surface water body or a constructed treatment, evaporation or infiltration facility.

“Structural diversity” means the relative degree of diversity or complexity of vegetation in a habitat area as indicated by the stratification or layering of different plant communities (e.g., ground cover, shrub layer, and tree canopy); the variety of plant species; and the spacing or pattern of vegetation.

“Structure” means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

“Substrate” means the soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.

“Wetland” or “wetlands” refers to areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands or wetland areas preserved as mitigation for the conversion of wetlands.

“Wetland buffer area” means a naturally vegetated and undisturbed, enhanced or revegetated zone surrounding a natural, restored or newly created wetland that is an integral part of a wetland ecosystem, and protects a wetland from adverse impacts to the

integrity and value of the wetland. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; and protect wetland resources from harmful intrusion.

“Wetland delineation” means a delineation done in accordance with the approved federal wetland delineation manual and applicable regional supplements as provided for in WAC 173-22-035.

“Wetland determination” means a report prepared by a qualified professional that identifies, characterizes and analyzes potential impacts to wetlands consistent with applicable provisions of these regulations. A determination does not include a formal delineation.

Footnotes to Definitions.

* “Adjacent,” subsection (C) – The distance of 250 feet is based on maximum wetland buffer.

** “Adjacent,” subsection (E) – The distance of 200 feet is a suggested distance to ensure that activities within the critical aquifer recharge area are included under this chapter, even when the exact boundaries of the critical aquifer recharge area are not known at the time of application.

Article III. Wetlands

22.10.050 Reserved.

22.10.060 Reserved.

22.10.070 Regulated activities in wetlands.

The following activities which occur within a wetland and its associated buffer, or outside a wetland or buffer, but affecting the wetland or buffer, shall be regulated pursuant to the standards of this chapter:

- A. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;
- B. Dumping, discharging or filling with any material;
- C. Draining, flooding or disturbing the water level or water table;
- D. Driving, piling or placing obstructions;
- E. Constructing, reconstructing, demolishing or altering any structure or infrastructure if the activity results in greater impervious surface coverage;

F. Destroying or altering vegetation including through clearing, harvesting, intentional burning, shading or planting vegetation that would alter the character of wetland;

G. Activities that result in significant changes in water temperature, physical or chemical characteristics of wetland water sources, introduction of pollutants, including water quantity and quality as stated in Chapter 90.03 RCW and Chapter 173-201 WAC;

H. Alteration of natural drainage patterns or any activity that results in a discharge of stormwater runoff into a wetland; and

I. Any other activities affecting a wetland or wetland buffer not otherwise exempt from the provisions of this section.

22.10.080 Exemptions and allowed uses in wetlands.

A. See RMC 22.10.360 for general exemptions to all critical areas.

B. Wetlands. The following wetlands are exempt from the buffer provisions contained in this chapter and may be filled if impacts are fully mitigated based on provisions in RMC 22.10.120, Wetland alteration and mitigation. In order to verify the following conditions, a critical area report for wetlands must be submitted.

1. All isolated Category III and IV wetlands less than 1,000 square feet that:

a. Are not associated with riparian areas or buffer.

b. Are not part of a wetland mosaic.

c. Do not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife or species of local importance.

d. Are not a vernal pool.

e. Are not an alkali wetland.

f. Do not contain aspen stands.

C. Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:

1. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.

2. The harvesting of wild crops in a manner that is not injurious to natural reproduction

of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

3. Agricultural activities that are existing and ongoing; provided, that they implement applicable best management practices (BMPs) contained in the latest editions of the USDA Natural Resources Conservation Services Field Office Technical Guide; or develop a farm conservation plan in coordination with the local conservation district. BMPs and/or farm plans should address potential impacts to wetlands from livestock, nutrient and farm chemicals, soil erosion and sediment control and agricultural drainage infrastructure. BMPs and/or farm plans should ensure that ongoing agricultural activities minimize their effects on water quality, riparian ecology, salmonid populations and wildlife habitat.

4. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer; provided, that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.

5. Enhancement of a wetland through the removal of nonnative invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities shall occur in conjunction with removal of invasive plant species.

6. Educational and scientific research activities.

7. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way; provided, that the maintenance or repair does not expand the footprint or use of the facility or right-of-way.

D. Notwithstanding the exemptions provided by this chapter, any otherwise exempt activities occurring in or near wetlands shall comply with the intent of these standards and shall consider on-site alternatives that achieve no net loss of ecological wetland functions.

22.10.090 Wetland inventory maps.

The approximate location and extent of wetlands within the city of Richland's planning area are shown on the critical areas maps adopted as part of this section. These maps shall be used only as a general guide for the assistance of property owners and the public, as the boundaries are generalized. The actual type, extent and boundaries of wetlands

shall be determined in the field by a qualified professional according to the procedures, definitions and criteria established by this chapter. In the event of any conflict between the wetland location or designation shown on the city of Richland's maps and the criteria or standards of this chapter, the results of applying the criteria and standards during the field investigation shall control.

Additional guidance may be obtained from a Department of Ecology publication "Focus on Irrigation Influenced Wetlands, Publication No. 10-06-015."

22.10.100 Rating – Categories of wetland.

Wetlands shall be designated Category I, Category II, Category III, or Category IV according to the following:

As set forth in the Washington State Department of Ecology's Wetland Rating System for Eastern Washington, Publication No. 14-06-030, as may be amended in the future (hereinafter referred to as the Ecology Wetlands Rating System).

22.10.110 Wetland buffer areas.

A. The establishment of wetland buffer areas shall be required for all development proposals and activities adjacent to wetlands to protect the integrity, function and value of the wetland. Buffers shall consist of an undisturbed area of vegetation established to protect the functions and values of the wetland. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided. Buffers shall be determined in conjunction with considerations of wetland type and quality, approved wetland alterations, and required mitigation measures. Buffers are not intended to be established or to function independently of the wetland they are established to protect; the establishment of a buffer shall not operate to prevent a use or activity that would otherwise be permitted in the wetland subject to mitigation.

B. Buffers shall be measured from the wetland edge as delineated using the 1987 Army Corps of Engineers Wetlands Delineation Manual and the Arid West Regional Supplement, as may be amended. Buffers shall be marked in the field. Required buffer widths shall be determined according to the proposed land use (Table 22.10.110(C) below) and the wetland category in Table 22.10.110(D).

C. The following table describes the types of land use:

Table 22.10.110(C) – Types of Land Uses

Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
High	• Commercial • Urban

Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
	• Industrial • Institutional • Retail sales • Residential (more than 1 unit/acre) • High-intensity recreation (golf courses, ball fields, etc.) • Conversion to high-intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.) • Hobby farms
Moderate	• Residential (1 unit/acre or less) • Moderate-intensity open space (parks with biking, jogging, etc.) • Paved driveways and gravel driveways serving 3 or more residences • Paved trails • Conversion to moderate-intensity agriculture (orchards, hay fields, etc.) • Utility corridor or right-of-way shared by several utilities and including access/maintenance road
Low	• Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.) • Timber management (cutting of trees only) • Gravel driveways serving 2 or fewer residences • Unpaved trails • Utility corridor without a maintenance road and little or no vegetation management

D. The following buffer widths are established:

Table 22.10.110(D) – Buffer Widths

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
Category IV Wetlands (For wetlands scoring less than 16 points for all functions)		
Score for all 3 basic functions is less than 16 points	Low – 25 ft. Moderate – 40 ft. High – 50 ft.	None
Category III Wetlands (For wetlands scoring 16 – 18 points for all functions)		
Moderate level of function for habitat (score for habitat 5 – 7 points)	Low – 75 ft. Moderate – 110 ft. High – 150 ft.	None
Score for habitat 3 – 4 points	Low – 40 ft. Moderate – 60 ft. High – 80 ft.	None
Category II Wetlands (For wetlands that score 19 – 21 points or more for all functions or having the “special characteristics” identified in the rating system)		
High level of function for habitat (score for habitat 8 – 9 points)	Low – 100 ft. Moderate – 150 ft. High – 200 ft.	Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 5 – 7 points)	Low – 75 ft. Moderate – 110 ft.	None

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
	High – 150 ft.	
High level of function for water quality improvement and low for habitat (score for water quality 8 – 9 points; habitat less than 5 points)	Low – 50 ft. Moderate – 75 ft. High – 100 ft.	No additional surface discharges of untreated runoff
Vernal pool	200 ft.	None
Riparian forest	Low – 75 ft. Moderate – 110 ft. High – 150 ft.	Riparian forest wetlands need to be protected at a watershed or subbasin scale Other protection based on needs to protect habitat and/or water quality functions
Not meeting above characteristic	Low – 50 ft. Moderate – 75 ft. High – 100 ft.	None
Category I Wetlands (For wetlands that score 22 points or more for all functions or having the “special characteristics” identified in the rating system)		
Wetlands of high conservation value	Low – 125 ft. Moderate – 190 ft. High – 250 ft.	No additional surface discharges to wetland or its tributaries No septic systems within 300 ft. of wetland Restore degraded parts of buffer
High level of function for habitat (score for habitat 8 – 9 points)	Low – 100 ft. Moderate – 150 ft. High – 200 ft.	Restore degraded parts of buffer Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 5 – 7 points)	Low – 75 ft. Moderate – 110 ft. High – 150 ft.	None
High level of function for water quality improvement (8 – 9 points) and low for habitat (less than 5 points)	Low – 50 ft. Moderate – 75 ft. High – 100 ft.	No additional surface discharges of untreated runoff
Not meeting above characteristics	Low – 50 ft. Moderate – 75 ft. High – 100 ft.	None

22.10.115 Buffer modifications.

A. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower rated area.
2. The buffer is increased adjacent to the higher functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.

3. The total area of the buffer after averaging is equal to the area required without averaging.

4. The buffer at its narrowest point is never less than either three-quarters of the required width or 75 feet for Categories I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

B. Averaging to allow reasonable use may be allowed when all of the following are met:

1. There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

2. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional.

3. The total buffer area after averaging is equal to the area required without averaging.

4. The buffer at its narrowest point is never less than either three-quarters of the required width or 75 feet for Categories I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

C. Reduction in Buffer Width Based on Reducing the Intensity of Impacts from Proposed Land Uses.

1. The buffer widths recommended for proposed land uses with high-intensity impacts to wetlands can be reduced to those recommended for moderate-intensity impacts under the following conditions:

a. For wetlands that score moderate or high for habitat (five points or more for the habitat functions), the width of the buffer can be reduced if all three of the following criteria are met:

i. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife ("relatively undisturbed" and "vegetated corridor" are defined in the Washington State Wetland Rating System for Eastern Washington – 2014 Update, or latest update). Priority habitats in Eastern Washington include:

(A) Wetlands;

(B) Riparian zones;

(C) Cliffs;

(D) Urban natural open space;

(E) Shrub-steppe habitat.

ii. The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection such as a conservation easement.

iii. Measures to minimize the impacts of different land uses on wetlands, as applicable in Table 22.10.110(D), are applied.

b. For wetlands that score fewer than five points for habitat, the buffer width can be reduced to that required for moderate land-use impacts by applying applicable measures to minimize the impacts of the proposed land uses (see examples in Table 22.10.115(D)).

D. Required Mitigation to Minimize Impacts to Wetlands from Changes in Land Uses with High Impacts.

Table 22.10.115(D)

Types of Disturbance	Examples of Activities and Uses That Cause Disturbances	Required Mitigation
Lights	• Parking lots • Warehouses • Manufacturing • Residential areas	• Direct lights away from wetland
Noise	• Manufacturing • Residential areas	• Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-ft. heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff*	• Parking lots • Roads • Manufacturing • Residential areas • Application of agricultural pesticides • Landscaping	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft. of wetland • Apply integrated pest management
Stormwater runoff	• Parking lots • Roads • Manufacturing • Residential areas • Commercial • Landscaping	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use low-intensity development techniques

Types of Disturbance	Examples of Activities and Uses That Cause Disturbances	Required Mitigation
Change in water regime	• Impermeable surfaces • Lawns • Tilling	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Residential areas	• Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract
Dust	• Tilled fields	• Use BMPs to control dust
* These examples are not necessarily adequate for minimizing toxic runoff if sensitive, threatened or endangered species are present at the site.		

E. The minimum buffer width stated in Table 22.10.110(D), Buffer Widths, shall be increased when the qualified professional determines, based upon a site-specific wetland analysis, that impacts on the wetland from a proposed development can only be mitigated by a greater buffer width. The standard wetland buffer width shall be increased:

1. When the adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or
2. When the standard buffer has minimal or degraded vegetative cover that cannot be improved through enhancement; or
3. When the wetland provides habitat for a species that is particularly sensitive to disturbance (listed by the federal government or the state as endangered, threatened, candidate, monitored or documented priority species or habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees), the width of the buffer should be increased to provide adequate protection for the species based on its particular life-history needs; or
4. When the minimum buffer for a wetland extends into an area with a slope of greater than 25 percent, the buffer shall be the greater of:
 - a. The minimum buffer for that particular wetland; or
 - b. Twenty-five feet beyond the point where the slope becomes 25 percent or less.

F. Low impact uses and activities (see Table 22.10.110(C)) that are consistent with the purpose and function of the wetland buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the wetland. Examples of uses and activities that may be permitted in appropriate cases, based on guidance in Wetlands Guidance for CAO Updates, June 2016, Publication No. 16-06-002 and as amended in the future, include pervious pedestrian trails, viewing platforms, normal and routine maintenance of existing facilities within an existing right-of-way and utility easements. Uses permitted within the buffer shall be located in the outer portion of the buffer as far

as possible from the wetland.

G. A variance from buffer width requirements may be granted by the city of Richland hearing examiner following Type II permit procedures and payment of a fee as set forth in RMC Title 19 upon a demonstration by the applicant that the following criteria are met:

1. That the strict application of the bulk, dimensional or performance standards set forth in this title preclude, or significantly interfere with, reasonable use of the property;
2. That the hardship described in subsection (G)(1) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this title, and not, for example, from deed restrictions or the applicant's own actions;
3. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and applicable development regulations and will not cause adverse impacts to the wetland;
4. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
5. That the variance requested is the minimum necessary to afford relief; and
6. That the public interest will suffer no substantial detrimental effect.

H. Signs and Fencing of Wetlands and Buffers.

1. Temporary Markers. The outer perimeter of the wetland buffer and the clearing limits identified in an approved permit or land use approval shall be marked in the field with temporary "clearing limits" fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the administrator prior to the commencement of permitted activities. Temporary marking shall be maintained throughout completion of all construction activities.

2. Permanent Signs. As a condition of any permit or land use approval, the administrator may require the applicant to install permanent signs along the boundary of a wetland or its buffer. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post. Signs, when required, shall be posted at an interval of one every 50 feet or one per lot if a lot is less than 50 feet wide and must be maintained by the property owner in perpetuity. Wording of the sign shall note the presence of a protected wetland area and/or wildlife habitat. Specific wording of the sign shall be approved by the administrator.

3. Fencing.

- a. The applicant shall be required to install a permanent fence around the wetland

or its buffer when domestic grazing animals are present or may be introduced on site.

b. Fencing installed as part of a proposed activity or as required by the administrator shall be designed so as not to interfere with species migration and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

22.10.120 Wetland alteration and mitigation.

A. All adverse impacts to wetland functions and values shall be mitigated. Mitigation actions by an applicant or property owner shall occur in the following priority sequence:

1. Avoiding the impact by not taking a certain action or parts of actions or moving the action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing or providing substitute resources or environments. Preference shall be given to measures that replace the impacted functions on site or in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identifies critical needs based on watershed or comprehensive resource management plans may be authorized;
6. Monitoring the adverse impact and taking appropriate corrective measures.

B. Where impacts cannot be avoided, the applicant or property owner shall seek to implement other appropriate mitigation actions in compliance with the intent, standards and criteria of this section. These shall include consideration of alternative site plans and building layouts and/or reduction in the density or scope of the proposal.

C. Alteration of wetlands and/or their buffers may be permitted by the administrator subject to the following criteria:

1. Category I Wetlands. Alterations of Type I wetlands shall be avoided.
2. Category II, III and IV Wetlands.

- a. Any proposed alteration and mitigation shall comply with the requirements of this section through RMC 22.10.150; and
- b. Where enhancement is proposed, replacement ratios comply with the requirements of RMC 22.10.130(C); and
- c. No net loss of wetland function and value will occur due to the alteration; and
- d. Avoids alterations of wetlands previously enhanced or created as mitigation.

22.10.125 Stormwater runoff.

New development within 150 feet of a wetland buffer shall contain stormwater runoff within the developed portions of the site. No stormwater runoff shall drain into the wetland. Deviations from this standard may be approved by the administrator; provided, that a study undertaken by a qualified professional in accordance with the provisions of RMC 22.10.140 indicates that the potential discharge of stormwater runoff from a development site into a wetland is adequately mitigated to protect the functions and values of the wetland. In the case of a Category III or Category IV wetland, stormwater management facilities may be located within the outer 25 percent of the required wetland buffer; provided, that a determination is made that no other location is feasible and the location of such facilities will not have an adverse impact on the functions and values of the wetland.

Streamflows that are influenced by irrigation practices are not considered stormwater runoff for the purposes of this chapter.

22.10.130 Mitigation standards, criteria, and plan requirements.

A. Types of Compensatory Mitigation. Mitigation for lost or diminished wetland and buffer functions shall rely on a type listed below in order of preference. A lower preference form of mitigation shall be used only if the applicant's qualified wetland professional demonstrates to the satisfaction of the administrator that all higher-ranked types of mitigation are not viable, consistent with the criteria in this section.

1. Restoration. Restoration is divided into:

- a. Reestablishment.
- b. Rehabilitation.

2. Creation (Establishment). If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the administrator may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified wetland professional that:

- a. The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will

not likely cause hydrologic problems elsewhere;

b. Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light or other impacts); and

c. The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.

3. Enhancement. Applications proposing to enhance wetland or associated buffers shall demonstrate how the proposed enhancement will increase the wetland's buffer's functions, how this increase in function will adequately compensate for the impacts, and how existing wetland functions at the mitigation site will be protected.

4. Protection/Maintenance (Preservation). Permanent protection of a Category I or II wetland and associated buffer at risk of degradation can be used only if:

a. The administrator determines that the proposed preservation is the best mitigation option;

b. The proposed preservation site is under threat of undesirable ecological change due to permitted, planned, or likely actions that will not be adequately mitigated under existing regulations;

c. The area proposed for preservation is of high quality or critical for the health of the watershed or basin due to its location. Some of the following features may be indicative of high-quality sites:

i. Category I or II wetland rating (using the wetland rating system for Eastern Washington);

ii. Rare or irreplaceable wetland type or aquatic habitat that is rare or a limited resource in the area;

iii. The presence of habitat for priority or locally important wildlife species;

iv. Provides biological and/or hydrological connectivity;

v. Priority sites in an adopted watershed plan.

d. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by an appropriate natural land resource manager, such as a land trust;

e. The administrator may approve other legal and administrative mechanisms in lieu of a conservation easement if determined to be adequate to protect the site;

f. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being impacted and the quality of the wetlands being preserved. Ratios for preservation as the sole means of mitigation generally start at 20:1.

B. Location and Timing of Mitigation.

1. Location of Compensatory Mitigation. Compensatory mitigation actions shall be conducted within the same subdrainage basin and on the site of the alteration except when all of subsections (B)(1)(a) through (d) of this section apply. In that case, mitigation may be allowed off site within the subwatershed of the impact site. When considering off-site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank, an in-lieu fee program, or advanced mitigation.

a. There are no reasonable opportunities on site or within the subdrainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the subdrainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity).

b. On-site mitigation would require elimination of high-quality upland habitat.

c. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.

d. Off-site locations shall be in the same subdrainage basin unless:

i. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the city and strongly justify location of mitigation at another site.

ii. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source[s] and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing seasonally saturated or inundated

wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.

2. Timing of Compensatory Mitigation. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

3. The administrator may authorize a one-time, temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan. The justification must be verified and approved by the administrator.

C. Mitigation Performance Standards.

1. Adverse impacts to wetlands functions and values shall be mitigated. Mitigation actions shall be implemented in the preferred sequence identified in RMC 22.10.120(A). Proposals which include less preferred and/or compensatory mitigation shall demonstrate that:

a. All feasible and reasonable measures will be taken to reduce impacts and losses to the original wetland, including a description of how preferred order of wetlands mitigation was followed: (i) restoration (including reestablishment and rehabilitation); (ii) creation (establishment); (iii) enhancement in combination with restoration or creation; and (iv) preservation of high quality, at-risk wetlands;

b. Compensatory mitigation shall be allowed only after mitigation sequencing is applied and higher priority means of mitigation are determined to be infeasible, and shall achieve equivalent or greater wetland ecological functions;

c. No overall net loss will occur in wetland functions and values; and

d. The restored, created or enhanced wetland will be as persistent and sustainable as the wetland it replaces.

D. Wetland Replacement Ratios.

1. Where wetlands alterations are permitted by the administrator, the applicant shall restore or create equivalent areas of wetlands in order to compensate for wetland losses. Equivalent areas shall be determined according to acreage, function, type, location, timing factors, and projected success of restoration or creation.

2. The following acreage replacement ratios shall be applied:

Table 22.10.130(C) Mitigation Ratios for Eastern Washington¹

Category and Type of Wetland Impacts	Reestablishment or Creation	Rehabilitation Only ²	Reestablishment or Creation (R/C) and Rehabilitation (RH) ²	Reestablishment or Creation (R, C) and Enhancement (E) ²	Enhancement Only ²
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I natural heritage site	Not considered possible ³	Case-by-case	R/C not considered possible ³	R/C not considered possible ³	Case-by-case

¹ Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or reestablishment. See Table 1b, Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance – Version 1, (Ecology Publication No. 06-06-011a, Olympia, WA, March 2006 or as revised).

² These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

³ Natural Heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

Reference: Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology Publication No. 06-06-011a. Olympia, WA.

3. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance “Wetland Mitigation in Washington State Parts I and II” (Ecology Publication No. 06-06-011a-b, Olympia, WA, March 2006, or as revised), the administrator may allow mitigation based on the “credit/debit” method developed by the Department of Ecology in “Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report” (Ecology Publication No. 11-06-015, August 2012, or as revised).

22.10.140 Wetland mitigation plan requirements.

Where it is determined by the administrator that compensatory wetland mitigation is required or appropriate, a mitigation plan shall be prepared consistent with the provisions below and shall also meet the minimum requirements contained in the Wetlands Guidance for CAO Updates, June 2016, Publication No. 16-06-002 and as amended in the future). The purpose of the plan is to prescribe mitigation to compensate for impacts to the wetland functions, values and acreage as a result of the proposed action. This plan shall consider the chemical, physical, and biological impacts on the wetland system using a recognized wetlands assessment methodology and/or best professional judgment. The mitigation plan shall be prepared in two phases, a conceptual phase and a detailed phase.

A. Conceptual Plan – Standards and Criteria. The applicant shall prepare a conceptual mitigation plan for submission to the administrator at a premitigation conference. The conceptual mitigation plan shall include:

1. General goals of the mitigation plan;
2. A review of literature or experience to date in restoring or creating the type of wetland proposed;
3. Location of proposed wetland compensation area;
4. General hydrologic patterns on the site following construction;
5. Nature of compensation, including wetland types (in-kind), general plant selection and justification, approximate project sequencing and schedule, and approximate size of the new wetland buffer;
6. A conceptual maintenance plan; and
7. Conceptual monitoring and contingency plan.

B. Detailed Plan – Standards and Criteria. Following acceptance of the conceptual mitigation plan by the administrator, the applicant will prepare a detailed mitigation plan. Each detailed plan shall contain, at a minimum, the following seven components, and shall be consistent with the standards in RMC 22.10.100 through 22.10.130:

1. A clear statement of the objectives of the mitigation. The goals of the mitigation plan should be stated in terms of the new wetland functions and values compared to the functions and values of the original wetland. Objectives should include:
 - a. Qualitative and quantitative standards for success of the project, including hydrologic characteristics (water depths, water quality, hydroperiod/hydrocycle characteristics, flood storage capacity); vegetative characteristics (community types, species composition, density, and spacing); faunal characteristics, and final topographic elevations.

b. An ecological assessment of the wetland values and wetland buffers that will be lost as a result of the activities, and of the replacement wetlands and buffers, including but not limited to the following:

- i. Acreage of project;
- ii. Existing functions and values;
- iii. Sizes of wetlands, wetland buffers, and areas to be altered;
- iv. Vegetative characteristics, including community type, areal coverage, species composition, and density;
- v. Habitat type(s) to be enhanced, restored, or created; and
- vi. Dates for beginning and completion of the mitigation project, and sequence of construction activities.

2. A statement of the location, elevation, and hydrology of the new site, including the following:

- a. Relationship of the project to the watershed and existing water bodies;
- b. Topography of site using the smallest readily available intervals, preferably one-foot contour intervals but two-foot are acceptable;
- c. Water level data, including depth and duration of seasonally high water table;
- d. Water flow patterns;
- e. Grading, filling and excavation, including a description of imported soils;
- f. Irrigation requirements, if any;
- g. Water pollution mitigation measures during construction;
- h. Areal coverage of planted areas to open water areas (if any open water is to be present); and
- i. Appropriate buffers.

3. A planting plan, describing what will be planted, and where and when the planting will occur, as follows:

- a. Soils and substrate characteristics;

- b. Specify substrate stockpiling techniques; and
 - c. Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirements.
4. A monitoring and maintenance plan, consistent with RMC 22.10.160.
- a. Specify procedures for monitoring and site maintenance including control of invasive species; and
 - b. Submit monitoring reports to the administrator.
5. A contingency plan, consistent with these regulations.
6. A detailed budget for implementation of the mitigation plan, including monitoring, maintenance and contingency phases.
7. A guarantee, in the form of a bond or other security device in a form and amount acceptable to the city attorney, assuring that the work will be performed as planned and approved, consistent with these regulations, including monitoring, maintenance and contingency.

22.10.150 Design standards for wetlands mitigation planning.

A. The following performance standards shall be incorporated into mitigation plans submitted to the city of Richland:

- 1. Plants should be indigenous to the region (not introduced or foreign species);
- 2. Plants should be adaptable to a broad range of water depths;
- 3. Plants should be commercially available or available from local sources;
- 4. Plant species high in food and cover value for fish and wildlife are recommended, when possible;
- 5. Plants should be mostly perennial species;
- 6. Avoid committing significant areas of site to species that have questionable potential for successful establishment;
- 7. Plant selection must be approved by wetlands biologist/ecologist;
- 8. Water depth is not to exceed six and one-half feet (two meters);
- 9. The grade or slope that water flows through the wetland is not to exceed six percent;

10. Slopes within the wetland basin and the buffer zone should not be steeper than 3:1 (horizontal to vertical);

11. The substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals, or solid/hazardous wastes) inorganic/organic materials;

12. Planting densities and placement of plants should be determined by a qualified professional and shown on the design plans;

13. The wetland (excluding the buffer area) should not contain more than 60 percent open water as measured at the seasonal high water mark;

14. Minimum buffer widths should extend from the wetland boundary in accordance with buffer requirements in Table 22.10.110(D), Buffer Widths, for the proposed category rating of the wetland that will be created;

15. The planting plan must be approved by the community development administrator or qualified professional acting on behalf of the city;

16. Stockpiling should be confined to upland areas and contract specifications should limit stockpile durations to less than four weeks. Any area designated as open space shall not be used to stockpile material;

17. Planting instructions which describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock;

18. Apply controlled-release fertilizer, if reasonable and prudent, at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process);

19. Install an irrigation system, if necessary, for initial establishment period; and

20. Construction specifications and methods must be approved by a qualified professional and the administrator.

B. On completion of construction, the wetland mitigation project must be signed off by the applicant's qualified professional and the administrator. Signature will indicate that the construction has been completed as planned and all design elements have been fully and correctly implemented. If there have been changes in the implementation of the plan, a written explanation from the qualified professional must be included.

22.10.160 Wetland monitoring program and contingency plan.

A. A monitoring program shall be implemented to determine the success of the mitigation project and any necessary corrective actions. This chapter shall determine if the original goals and objectives are being met.

B. A contingency plan shall be established for compensation in the event that the mitigation project is inadequate or fails. A performance and maintenance bond or other acceptable security device is required to ensure the applicant's compliance with the terms of the mitigation agreement. The amount of the performance and maintenance bond shall equal 125 percent of the cost of the mitigation project for a period of five years. The administrator may agree to reduce the bond in phases in proportion to work successfully completed over the period of the bond.

1. During monitoring, scientific procedures for establishing the success or failure of the project must be used and shall be identified in the monitoring plan;
2. For vegetation determinations, permanent monitoring transects or plots shall be established that adequately represent the compensatory mitigation site;
3. Vegetative success in the compensatory mitigation wetland will be defined as:
 - a. An average density of at least four plants per 100 square feet in the scrub-shrub and forested communities in year one;
 - b. A cover of native wetland trees and shrubs combined (planted and volunteer) of at least 10 percent in year three; 25 percent in year five; 40 percent in year seven; 50 percent in year 10;
 - c. A cover of native wetland herbaceous plant species (planted and volunteer) of at least 25 percent in year five; 40 percent in year seven and 50 percent in year 10;
 - d. Nonnative invasive species must be controlled per site-specific specifications and shall not exceed the maximum amount as identified in the approved monitoring plan;
 - e. Buffer vegetation shall be maintained in the amount as identified in the approved monitoring plan;
4. Submit monitoring reports on the current status of the mitigation project to the administrator. The reports are to be prepared by a qualified professional and reviewed by the administrator and should include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, and shall be produced for years one, two, three, four, seven and 10. Monitoring reports shall incorporate hydrology standards to ensure the required wetland habitat and buffer areas are established and functioning and shall detail the minimum number of days during the growing season when soils must remain inundated or saturated to the ground surface;
5. Monitor for 10 growing seasons. If the mitigation goals are obtained within the initial five-year period, no further monitoring will be required;

6. If necessary, correct for failures in the mitigation project;
7. Replace dead or undesirable vegetation with appropriate plantings, based on the approved planting plan or RMC 22.10.150;
8. Repair damages caused by erosion, settling, or other geomorphological processes;
9. Redesign mitigation project (if necessary) and implement the new design;
10. Correction procedures shall be approved by a qualified professional and the administrator; and
11. The area where the mitigation occurred and any associated buffer shall be located in a critical area tract, a conservation easement or similar legal instrument as approved by the administrator to ensure the future protection of the mitigation site.

Article IV. Fish and Wildlife Habitat Conservation Areas

22.10.170 Reserved.

22.10.180 Exemption from fish and wildlife habitat conservation area regulations.

A. See RMC 22.10.360 for general exemptions to all critical areas.

B. The following activities shall be exempt from the provisions of this chapter related to fish and wildlife habitat conservation areas, provided they are conducted using best management practices:

1. Activities involving artificially created habitat, including but not limited to grass-lined swales, irrigation and drainage ditches, detention facilities such as reservoirs, ponds, and landscape features, except for habitat areas created as mitigation.

C. Notwithstanding the exemption provided by this section, any otherwise exempt activities occurring in or near critical habitat areas shall comply with the intent of these standards and shall consider on-site alternatives that avoid or minimize potential habitat impacts and shall consider the timing of exempt work to minimize disturbances to wildlife including disturbance to migratory bird nesting sites.

22.10.185 Fish and wildlife habitat conservation areas.

A. Fish and wildlife habitat conservation areas include the following:

1. Areas where state or federal designated endangered, threatened, and sensitive species have a primary association.
 - a. Federal designated endangered and threatened species are those fish, wildlife and plant species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become

endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted as necessary for current listing status.

b. State designated endangered, threatened and sensitive species are those fish, wildlife and plant species native to the state of Washington identified by the State Department of Fish and Wildlife and/or State of Washington Natural Heritage Program that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. The state of Washington's Department of Fish and Wildlife and/or Natural Heritage Program maintains the most current listings and should be consulted as necessary for current state listing status;

2. State priority habitats and areas associated with state priority species.

a. State of Washington priority habitats and species are considered priorities for conservation and management. The state of Washington's Department of Fish and Wildlife should be consulted for current listing of priority habitats and species;

3. Habitats and species of local importance. The city of Richland hereby adopts by reference those priority habitats and species considered priorities for conservation and management identified by the State Department of Fish and Wildlife and State of Washington Natural Heritage Program as now exist or as may be amended;

4. In addition to the priority habitats and species recognized by WDFW and/or State of Washington Natural Heritage Program, a process is provided for listing other habitats and species that are important locally to the people of Richland. This action may be initiated at the request of the Washington State Department of Fish and Wildlife, other government agency, city staff, nonprofit organization or interested citizen. Any such request shall be in writing and shall include:

a. The common and scientific name for a species under consideration;

b. Habitat location on a map (scale 1:24,000);

c. Demonstrate a need for special consideration based upon best available science and considering:

i. Declining or increasing population;

ii. Sensitivity to habitat manipulation; or

iii. Commercial or game value or other special value, such as public appeal;

d. Habitat management recommendations, including potential uses and restrictions of the habitat areas, seasonally sensitive areas and other guidelines necessary for

the protection of the species;

e. Reasons for the species/habitat to be designated;

f. Name and address of the nominator, along with a list of property owners and mailing addresses for each property mapped as containing habitat and/or species;

g. Other supporting documentation (as determined by the administrator);

h. SEPA checklist;

i. Fee as established by the city of Richland fee schedule.

Submitted proposals shall be reviewed by city staff as a Type IV legislative action pursuant to RMC 19.20.010(D)(2) and Chapter 19.90 RMC. Suggested amendments to this section of the critical areas regulations shall result in amendment no more often than once each calendar year with the deadline for submittal being January 31st. Copies of the proposal shall be submitted to WDFW and/or other local, state or federal agencies or experts for comments and recommendations regarding accuracy of the data and effectiveness of proposed management strategies as part of the public comment period. Approved nominations will be designated priority habitats/species as appropriate and will be given all protection under this chapter afforded other priority habitats and species;

5. The areas listed as a national wildlife refuge, national park, natural area preserve or any preserve or reserve designated under WAC 332-30-151;

6. The Yakima River Delta area, including Lake Wallula wildlife habitat areas currently managed by the U.S. Army Corps of Engineers, the Chamna Natural Preserve, Bateman Island;

7. The Hanford Islands in the Columbia River managed by the U.S. Fish and Wildlife Service;

8. Amon Creek Natural Preserve;

9. Badger Mountain Natural Preserve;

10. Category I wetlands as defined in RMC 22.10.100;

11. State nature area preserves or natural resource conservation areas and state wildlife areas;

12. Documented habitat, other than accidental presence, of threatened or endangered species;

13. Documented habitat, other than accidental presence, of regional or national

significance for migrating birds;

14. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;

15. Waters of the state;

16. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

B. Fish and wildlife habitat conservation areas are intended to:

1. Create a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces, integrating with open space corridor planning where appropriate;

2. Limit the level of human activity within such areas that is appropriate for certain areas and habitats, including presence of roads and level of recreation type (passive or active recreation);

3. Protect riparian ecosystems including potential for restoring lost or impaired salmonid habitat;

4. Evaluate land uses that may negatively impact these areas, or conversely, that may contribute positively to their function;

5. Establish buffer zones around these areas to separate incompatible uses from habitat areas;

6. Establish or enhance nonregulatory approaches in addition to regulatory methods to protect fish and wildlife habitat conservation areas.

22.10.190 Fish and wildlife habitat conservation area inventory maps.

To determine the location and extent of fish and wildlife habitat conservation areas, the city shall use best available science, including current information contained in priority habitats and species maps as maintained by the Washington State Department of Fish and Wildlife. These maps shall be used as a general guide only for the assistance of property owners and other interested parties; boundaries are generalized. The actual type, extent, and boundaries of habitat areas shall be determined by a qualified professional according to the procedures, definitions, and criteria established by this article. In the event of any conflict between the habitat location or type shown on maps and the criteria or standards of this article, the criteria and standards resulting from the field investigation shall control.

Recovery plans and management recommendations for many of these species are available from the United States Fish and Wildlife Service, the National Marine Fisheries

Service and the Washington State Department of Fish and Wildlife. Additional information is also available from the Washington State Department of Natural Resources, Natural Heritage Program, and Aquatic Resources Program.

It is also possible that unmapped areas may include priority habitats or species (PHS), endangered, threatened or sensitive (ETS) species, or habitats and species of local importance (HSLI). If such a species is known to exist within an unmapped area, the type, extent and boundaries of this area shall be determined by a qualified professional.

22.10.200 Requirements for habitat conservation area reports.

When development is proposed within a fish and wildlife habitat conservation area or its buffer, or where development is proposed to be located adjacent to a fish and wildlife habitat conservation area or its buffer or close enough to the FWHCA so as to likely impact critical area ecosystem functions and values, a habitat conservation report shall be prepared consisting of the following:

A. The report shall be prepared by a qualified professional using the best available science;

B. The area addressed in any report for a fish and wildlife habitat conservation area shall include the project area and adjacent lands within 300 feet of the project boundaries to account for potential buffers that may not be accurately mapped at the time of application. Further the report shall identify all habitat conservation areas, shorelines, floodplains, other critical areas and related buffers;

C. A habitat conservation report shall include an assessment to evaluate the presence or absence of priority habitat. At a minimum the habitat assessment shall include:

1. Detailed description of vegetation on and adjacent to the project area, including the existence or nonexistence of plant species native to the state of Washington identified by the State of Washington Natural Heritage Program that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats;
2. Identification of any priority species and habitats (PHS) or any endangered, threatened, sensitive or candidate species and any habitat or species of local concern that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the protected habitat or use of the site by the species;
3. A discussion of any federal, state or local special management recommendations, including Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
4. A discussion of measures, including avoidance, minimization and mitigation

proposed to preserve existing habitats or restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with RMC 22.10.220 (mitigation sequencing);

5. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs;

6. When warranted, the administrator may require detailed surface and subsurface hydrologic features both on and adjacent to the site;

D. Habitat conservation area reports shall be forwarded to the Washington Department of Fish and Wildlife and local Native American Indian tribes to provide them with an opportunity to comment on the adequacy and accuracy of the report;

E. The administrator may waive the requirement for the preparation of a habitat conservation area report upon a determination that by reason of previous development that the proposed project site does not provide functional habitat. Such waiver shall be made in writing and a copy shall be provided to the Washington State Department of Fish and Wildlife.

22.10.210 Fish and wildlife habitat conservation area – Performance standards.

Development or any regulated activity occurring within a designated habitat conservation area or within its respective protection buffer, or development or any regulated activity proposed to occur adjacent to, or close enough to, a habitat conservation area so as to likely impact critical area ecosystem functions and values, shall only be permitted in accordance with the conditions of an approved habitat conservation area report. Such report shall be based on the following standards using the best available science:

A. Consider habitat in site planning and design;

B. Locate buildings and structures in a manner that preserves and minimizes adverse impacts to important habitat areas, including use of bird-friendly building design and use of dark sky lighting standards;

C. Integrate retained habitat into open space and native plantings, consistent with the provisions of all open space and landscaping requirements;

D. Activity within or close to a habitat conservation area shall not result in the degradation of the functions and values of the habitat;

E. Nonindigenous species shall not be introduced into a habitat conservation area;

F. Contiguous corridors through a project area shall be maintained. Measures necessary to mitigate impacts within a habitat conservation area shall attempt to achieve contiguous functioning habitat corridors in order to minimize the isolating effects of development on

habitat;

G. Identify habitat contiguous to other habitat areas, open space or landscape areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas and allows movement of wildlife;

H. Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat areas;

I. Emphasize heterogeneity and structural diversity of vegetation in landscaping and food producing plants beneficial to wildlife;

J. Width of riparian corridors shall be in accordance with buffer widths suggested by BAS, including WDFW publication Riparian Ecosystems, Volume 2: Management Recommendations, May 2018, or as revised. Riparian corridors shall also meet the minimum requirements as established in RMC Title 26 and wetland buffer requirements as established in RMC 22.10.110;

K. Activities within a habitat conservation area shall be conditioned as identified in the habitat conservation area report to avoid, minimize, or mitigate potential adverse impacts. Conditions shall include protective buffers based on the State of Washington Department of Fish and Wildlife management recommendations for Washington's priority species modified for local conditions and the recommendations of the Department of Fish and Wildlife biologists and may include, but are not limited to, the following measures:

1. Establishment of undisturbed habitat areas;
2. Staking of undisturbed habitat areas prior to any construction, including clearing, grading and filling taking place on site;
3. Fencing of undisturbed habitat areas in a manner consistent with the provisions of RMC 22.10.115(H);
4. Temporary erosion and sedimentation controls, pursuant to an approved plan, shall be implemented during construction;
5. Preservation of critically important vegetation;
6. Supplemental planting of native tree or shrub cover;
7. Removal and/or control of any noxious or undesirable species of plants and animals;
8. Preservation of significant trees and/or snags, preferably in groups, consistent with achieving the objectives of these standards;

9. Replanting of disturbed areas and/or areas where noxious weed species were removed with native vegetation types, including ongoing plans for weed control and irrigation as appropriate;
10. Limitation of access to an identified habitat area, including fencing to deter unauthorized access;
11. Seasonal restriction on construction activities;
12. Implementation of a schedule for periodic review of completed mitigation measures for a specified time period;
13. Posting of a bond or other financial surety to ensure completion and success of proposed mitigation measures. Such bond or other security device shall be required to assure successful establishment of required planting for an appropriate monitoring period. The amount of the bond or other security device shall equal 125 percent of the cost of the mitigation project for a period of five years. The administrator may agree to reduce the bond in phases in proportion to work successfully completed over the period of the bond.

22.10.220 Fish and wildlife habitat conservation area alteration.

A. Adverse impacts to habitat functions and values shall be mitigated to the extent feasible and reasonable. Mitigation actions by an applicant or property owner shall occur in the following preferred sequence:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing similar substitute resources or environments. Preference shall be given to measures that replace the impacted functions on site or in the immediate vicinity of the impact;
6. Monitoring the impact over time and taking corrective measures to minimize additional impacts.

B. Where impacts cannot be avoided, the applicant or property owner shall seek to implement other appropriate mitigation actions in compliance with the intent, standards

and criteria of this section. In an individual case, these actions may include consideration of alternative site plans and layouts, reductions in the density or scope of the proposal, and/or implementation of the performance standards listed in RMC 22.10.210.

22.10.230 Fish and wildlife habitat performance standards and incentives.

Repealed by Ord. 40-17.

Article V. Geologically Hazardous Areas

22.10.240 Identification and definition.

A. Geologically hazardous areas identification and designation shall be consistent with the minimum guideline classifications established in WAC 365-190-120 which includes any future amendments to the code. Areas that are susceptible to one or more of the following types of hazards shall be classified as a geologically hazardous area:

1. Erosion hazard;
2. Landslide hazard;
3. Seismic hazard; and
4. Mine hazard.

B. Erosion Hazard Areas. Those areas that are identified by the United States Department of Agriculture Soil Conservation Service as having a severe rill and inter-rill erosion hazard.

C. Landslide Hazard Areas. Those areas that are potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Landslide hazard areas include, but are not limited to, the following types of areas:

1. Areas delineated by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development;
2. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Department of Natural Resources Division of Geology and Earth Resources;
3. Areas with all three of the following characteristics:
 - a. Areas with slope steeper than 15 percent;
 - b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

c. Springs or ground water seepage;

4. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or which are underlain or covered by mass wastage debris of that epoch;

5. Areas with slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

6. Areas with slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking;

7. Areas potentially unstable as a result of rapid stream incision, stream bank erosion and undercutting by wave action;

8. Areas that show evidence of, or on, an active alluvial fan presently or potentially subject to inundation by debris flows or catastrophic flooding; or

9. Areas with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

D. Seismic Hazard Areas. Those areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by: (1) magnitude of an earthquake; (2) distance from the source of an earthquake; (3) type of thickness of geologic materials at the surface; and (4) type of subsurface geologic structure.

E. Mine Hazard Areas. Those areas underlain by, adjacent to, or affected by mine working areas as designated by the Washington State Department of Natural Resources.

22.10.250 Applicability to geologically hazardous areas.

The provisions of this article shall apply to any activity that occurs in or within 200 feet of a geologically hazardous area unless otherwise exempt. These activities include but are not limited to the following:

A. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;

B. Dumping, discharging or filling with any material;

C. Driving piling or placing obstructions;

D. Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure which has an adverse effect on a geologically hazardous area; destroying or altering vegetation through clearing or harvesting; road construction; utility installation; and any project permit established in Chapter 19.20 RMC.

22.10.260 Geologically hazardous area inventory maps.

The approximate location and extent of geologically hazardous areas within the city of Richland's planning area are shown on the critical areas maps adopted as part of this chapter. These maps should be used as a general guide only for the assistance of property owners and the city of Richland to identify and designate geologically hazardous areas.

22.10.270 Preliminary assessment.

A. The administrator shall conduct a preliminary assessment of the proposed activity. The preliminary assessment shall consist of reviewing geologically hazardous inventory maps, conducting an on-site evaluation, and, if necessary, consulting with state and/or federal agencies to determine whether there is a reasonable belief that a proposed activity may be present within 200 feet of a geologically hazardous area. In the event there is a disagreement as to whether the activity is within 200 feet of a geologically hazardous area, a geologic report prepared by a qualified professional as defined in RMC 22.10.380 shall be required, at the property owner or applicant's expense, to determine this issue.

B. If it is determined that there is a reasonable belief that a proposed activity may be present within 200 feet of a geologically hazardous area, then geologic reports and studies are required at the property owner's or applicant's expense.

22.10.280 Geologic reports and studies.

Geologic studies and reports shall comply with the requirements established in RMC 22.10.370(B)(6), permit process and application requirements.

22.10.290 Administrative evaluation of geologic reports and studies.

The administrator shall review the geologic reports and studies to determine the significant risks posed by the activity to life and property on and off the project site. The city of Richland may approve, conditionally approve or deny an activity, as appropriate, based on the degree to which significant risks are posed to public and private property and to the health and safety of the community. Conditional approval of the activity may include mitigation measures based on the geologic reports and studies. Where potential impacts of the activity cannot be effectively mitigated, or where the risk to public health, safety and welfare of the community is significant notwithstanding mitigation, the activity shall be denied.

22.10.295 Assurance.

The administrator may require assurance from the owner or applicant and/or qualified professional that the activity creates a minimal risk of danger to life or property on or off the project site. Such assurance may include the following:

A. A letter from the qualified professional who prepared the required study and report stating that the activity creates a minimal risk of danger to life or property on or off the project site; or

B. A letter from the owner or applicant stating its understanding and acceptance of any risk of injury or damage associated with the activity and agreeing to notify any future purchasers of the site, portions of the site, or structures located on the site of the geologic hazard.

Article VI. Critical Aquifer Recharge Areas Protection

22.10.300 Identification and definition.

Critical aquifer recharge areas (CARAs) are defined as those areas having a critical recharging effect on aquifer use for potable water in community systems. CARAs are classified and designated as follows:

A. Those areas designated as “wellhead protection areas” pursuant to WAC 246-290-135(3) and the ground water contribution area in WAC 246-291-125. Wellhead protection areas shall, for the purpose of this regulation, include the identified recharge areas associated with either Group A ~~public water supply wells and those~~ or Group B ~~public water supplies wells with a wellhead protection plan filed with the city and/or Benton Franklin Health District~~; and

B. Any land identified in the soil survey of Benton County as having high potential for aquifer recharge, as determined by the administrator.

In order to protect the public health and safety, prevent degradation of ground water and for potentially usable potable water, and to provide for regulations that prevent and control risks to the degradation of ground water quality and quantity, development in CARAs shall be subject to the standards described in this section.

22.10.310 Critical aquifer recharge area maps.

The approximate location and extent of aquifer recharge areas are shown on the critical areas maps. Wellhead protection areas are shown in the ~~state Department of Health’s Source Water Assessment Program mapping city’s adopted wellhead protection plan as presented in the city’s 2017 Water System Plan~~. These maps should be used as a general guide only for the assistance of property owners and the city of Richland to identify and designate critical aquifer recharge areas.

22.10.320 Exemptions from critical aquifer recharge area regulations.

A. See RMC 22.10.360 for general exemptions to all critical areas.

B. The following activities shall be exempt from the CARA provisions of this section, provided they are conducted using best management practices for protecting surface and ground water quality:

1. Single-family residential development.
2. Development and improvement of parks, recreation facilities, open space, or conservation areas resulting in less than five percent total site impervious surface area that do not increase the use of a hazardous substance.
3. Group A [and Group B](#) public water system source development and associated infrastructure.
4. Public water supply aquifer storage and recovery (ASR) facilities.
5. Public water pipelines and supply storage structures.
6. The following underground storage tank (UST) systems, including any piping connected thereto:
 - a. Any UST system holding hazardous wastes subject to Subtitle C of the Federal Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;
 - b. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;
 - c. Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;
 - d. Any UST system whose capacity is 110 gallons or less;
 - e. Any UST system that contains a de minimis concentration of regulated substances;
 - f. Any emergency spill or overflow containment UST system that is expeditiously emptied after use;
 - g. UST systems used for storing heating oil for consumptive use on the premises where stored; except that such systems which store in excess of 1,100 gallons are subject to the release reporting requirements of WAC 173-360-372;
 - h. Any pipeline facility (including gathering lines) regulated under:
 - i. The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.), or
 - ii. The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or
 - iii. Which is an intrastate pipeline facility regulated under state laws comparable

to the provisions of the law referred to in subsection (B)(6)(h)(i) or (ii) of this section;

i. Surface impoundments, pits, ponds, or lagoons;

j. Stormwater or wastewater collection systems;

k. Flow-through process tanks;

l. Storage tanks situated in an underground area (such as a basement, cellar, vault, mineworking drift, shaft, or tunnel), if the storage tank is situated upon or above the surface of the floor.

22.10.330 Reports and studies.

Reports for CARAs shall be submitted to the administrator by the applicant when a development proposal activity not otherwise exempted as provided in RMC 22.10.320 is proposed on a parcel within an aquifer recharge area. Requirements for a ~~hydrogeologic assessment~~ critical aquifer recharge area report are found in RMC 22.10.370.

22.10.340 Performance standards.

A. Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.

B. The proposed activity must comply with the source water ~~source~~ protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, Washington State Department of Ecology, and the Benton-Franklin ~~County~~ Health District. ~~Department~~.

C. The proposed activity must be designed and constructed in accordance with existing local, state and federal laws and regulations, and the Stormwater Management Manual for Eastern Washington, as amended (Ecology ~~2004~~2019), and/or the locally adopted program, as applicable.

22.10.350 Uses prohibited in critical aquifer recharge areas.

The following activities and uses are prohibited in CARAs:

A. Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;

B. Underground Injection Wells. Class I, III, and IV wells, and underground injection wells that do not comply with Chapter 173-218 WAC or Chapter 173-200 WAC and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;

C. Mining in critical aquifer recharge areas determined to be highly susceptible ~~in the~~

~~city's wellhead protection plan.~~

1. Metals and hard rock mining;

2. Sand and gravel mining;

D. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);

E. Storage, Processing, or Disposal of Radioactive Substances. Facilities that store, process, or dispose of radioactive substances.

Article VII. General Standards Information

22.10.360 General exemptions.

The following activities shall be exempt from the provisions of this chapter, provided they are conducted using best management practices and minimize and/or mitigate the impacts to critical areas:

A. Existing and ongoing agricultural activities, as defined in RMC 22.10.040 and subject to the provisions found in RMC 22.10.080(C)(3);

B. Maintenance, operation and reconstruction of existing roads, streets, utilities, and associated structures; provided, that reconstruction of any structures may not increase the impervious area;

C. Normal maintenance, repair and reconstruction of residential or commercial structures; provided, that reconstruction of any structures may not increase the impervious floor area;

D. Site investigative work and studies necessary for preparing land use applications, including soils tests, water quality studies, wildlife studies and similar tests and investigations; provided, that any disturbance of critical areas shall be the minimum necessary to carry out the work or studies;

E. Educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive fields, bird watching, fishing and hiking, that will not have a significant effect on the habitat area;

F. Public agency emergency activities necessary to prevent an immediate threat to public health, safety or property; provided, that retroactive mitigation is required to restore a site to a pre-emergency response condition to ensure no net loss of ecological functions. Retroactive mitigation must occur within the first growing season following completion of the emergency work;

G. Prior to the effective date of the ordinance codified in this chapter any of the following activities that have met all conditions of approval in a timely manner and are consistent

with the reasonable use provisions of this chapter:

1. Complete applications as defined by the appropriate ordinance;
2. Approved preliminary plats; and
3. Development of legally created lots which have been recorded with Benton County;

H. Minor activities not mentioned above and determined by the administrator to pose minimal risk to critical areas;

I. The operation, maintenance, or reconstruction of existing canals, waterways, wasteways, drains, reservoirs or other facilities that lie within the boundaries of and are maintained by an irrigation district or company; provided, that any new construction or related activity does not encroach into a critical area.

22.10.370 Permit process and application requirements.

A. Preapplication Conference. All applicants are encouraged to meet with the administrator prior to submitting an application subject to these regulations. The purpose of this meeting shall be to discuss the city of Richland's critical areas requirements, processes, and procedures; to review any conceptual site plans prepared by the applicant; to discuss appropriate investigative techniques and methodology; to identify potential impacts and mitigation measures; and to familiarize the applicant with state and federal programs, particularly those pertaining to wetlands. Such conference shall be for the convenience of the applicant and any recommendations shall not be binding on the applicant or the city of Richland.

B. Application Requirements. The information required by this section should be coordinated with reporting requirements required by this section for any other critical area located on the site.

1. Prior to the issuance of a SEPA threshold determination for a proposal, a wetland determination, wetland delineation report, fish and wildlife habitat conservation area report, geologic hazard report or critical aquifer recharge area report must be submitted to the administrator for review if such critical areas are indicated on any portion of the site. The purpose of the reports is to determine the extent and function of critical areas where regulated activities are proposed. The report will also be used by the administrator to determine the appropriate implementation of critical area regulations and the extent to which potential impacts of proposed activities are addressed by existing regulations that provide environmental analysis and measures that avoid or otherwise mitigate the probable specific adverse environmental impacts of proposed activities.

2. In addition, wetland boundaries must be staked and flagged in the field by a qualified professional.

3. The report on any critical area shall include the following information:

- a. Vicinity map;
- b. A map showing:
 - i. Site boundary, property lines and roads;
 - ii. Internal property lines, rights-of-way, easements, etc.;
 - iii. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;
 - iv. Contours at the smallest readily available intervals, preferably at five-foot intervals;
 - v. For large (50 acres or larger) or complex projects with wetlands or habitat areas, an aerial photo with overlays displaying the site boundaries and wetland delineation or habitat area(s) may be required. Generally, an orthophotograph at a scale of one inch equals 400 feet or greater (such as one inch equals 200 feet) should be used. If an orthophotograph is not available, the center of a small scale (e.g., one inch equals 2,000 feet) aerial enlarged to one inch equals 400 feet may be used;
 - vi. Locational information including legal description and address;
 - vii. All natural and manmade features within 150 feet of the site boundary;
 - viii. General site conditions including topography, acreage, and water bodies or wetlands; and
 - ix. Identification of any areas that have previously been disturbed or degraded by human activity or natural processes.

4. In addition to the general report requirements, a report on wetlands shall include the following information:

- a. Delineated wetland boundary;
- b. The wetland boundary must be accurately drawn at an appropriate engineering scale such that information shown is not cramped or illegible. The drawing shall be prepared by a surveyor. Generally, a scale of one inch equals 40 feet or greater (such as one inch equals 20 feet) should be used. Existing features must be distinguished from proposed features;
- c. Site designated on the wetlands areas maps described in RMC 22.10.090;

d. Hydrologic mapping showing patterns of water movement into, through, and out of the site area;

e. Location of all test holes and vegetation sample sites, numbered to correspond with flagging in the field and field data sheets;

f. Field data sheets from the Federal Manual, numbered to correspond with sample site locations as staked and flagged in the field; and describe:

i. Specific descriptions of plant communities, soils, and hydrology;

ii. A summary of existing wetland function and value; and

iii. A summary of proposed wetland and buffer alterations, impacts, and the need for the alterations as proposed. Potential impacts may include but are not limited to loss of flood storage potential, loss of wildlife habitat, expected decreases in species diversity or quantity, changes in water quality, increases in human intrusion, and impacts on associated wetland or water resources. If alteration of a Category I, II, III or IV wetland is proposed, a wetland mitigation plan is required according to the standards of RMC 22.10.140.

5. In addition to the general report requirements, a report on fish and wildlife habitat conservation areas shall include the requirements listed in RMC 22.10.200 together with the following information. (The level of detail contained in the report shall generally reflect the size and complexity of the proposal and the function and value of the habitat. The administrator may require field studies at the applicant's expense in appropriate cases.)

a. A map of vegetative cover types, reflecting the general boundaries of different plant communities on the site;

b. A description of the species typically associated with the cover types, including an identification of any critical wildlife species expected to be found;

c. The results of searches of Washington State Department of Natural Resource's Natural Heritage and Washington State Department of Wildlife's nongame data system databases, if available;

d. Additional information on species occurrence available from the city of Richland or Benton County or the Washington State Department of Fish and Wildlife; and

e. Include the following descriptions:

i. The layers, diversity and variety of habitat found on the site;

ii. Identification of edges between habitat types and any species commonly

associated with that habitat;

iii. The location of any migration or movement corridors;

iv. A narrative summary of existing habitat functions and values;

v. A summary of proposed habitat and buffer alterations, impacts, and mitigation. Potential impacts may include but are not limited to clearing of vegetation, fragmentation of wildlife habitat, expected decreases in species diversity or quantity, changes in water quality, increases in human intrusion, and impacts on wetlands or water resources; and

vi. Describe how mitigation meets the criteria of RMC 22.10.220 including the specified mitigation sequence.

6. In addition to the general report requirements, applicants for activities within 200 feet of geologically hazardous areas shall conduct technical studies and reports which include the following:

a. Review site history and available information;

b. Conduct a surface reconnaissance of the site and adjacent areas;

c. Conduct subsurface exploration suitable to the site and proposal to assess geotechnical geohydrologic conditions;

d. Conduct a detailed stability analysis of the existing landslide that demonstrates that the proposal will result in a suitable factor of safety during and following site development;

e. Characterize soils, geology and drainage;

f. Characterize ground water conditions including the presence of any public or private wells in the immediate vicinity;

g. Analyze proposed clearing, grading and construction activities, including construction scheduling; potential direct and indirect, on-site and off-site, impacts from development; and proposed mitigation measures, including any special construction techniques, monitoring or inspection programs (during and after construction), and surface water management controls;

h. Evaluate the presence of geologic conditions giving rise to geologic hazards;

i. Evaluate the safety and appropriateness of the proposed activities;

j. Recommend appropriate construction practices, monitoring programs and other

mitigating measures required to ensure achievement of the purpose and intent of these regulations. The format of any required reports shall be determined by the administrator;

k. Recommend surface water management controls during construction and operation;

l. Propose construction scheduling; and

m. Recommend site monitoring and inspection during construction.

7. In addition to the general report requirements, a report for critical aquifer recharge areas must meet the following requirements:

a. Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all CARAs located on site or immediately adjacent to the site, and permeability of the unsaturated zone;

b. Ground water depth, flow direction, and gradient based on available information;

c. Currently available data on wells and springs within 1,000 feet of the project area;

d. Location of other critical areas, including surface waters, within 1,000 feet of the project area;

e. Available historic water quality data for the area to be affected by the proposed activity;

f. Evaluation of the potential impact of the proposed development on ground water quality, both short and long term, based on an assessment of the cumulative impacts of the proposal in combination with existing and potential future land use activities;

g. ~~A proposed mitigation plan~~ Identified protective measures, as applicable. Applicants must demonstrate how they will integrate necessary and appropriate best management practices to prevent degradation of ground water.

8. In addition to the general report requirements, a report on floodplain development shall include the information required by RMC 22.16.040, Administration.

C. Permit Process. This section is not intended to create a separate permit process for development proposals. To the extent possible, the administrator shall consolidate and integrate the review and processing of critical area-related aspects of proposals with other land use and environmental considerations and approvals.

D. The administrator has the authority to seek expert advice in determining the adequacy of the submitted report, at the applicant's expense.

22.10.380 Requirements of qualified professional.

All reports or studies are to be performed by a professional, licensed or qualified as a consultant, in the critical area at issue. The administrator shall determine whether a person is a qualified professional pursuant to RMC 22.10.040, in accordance with ~~based on the criteria established in~~ WAC 365-195-905(4).

22.10.385 Notice on title.

A. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property that contains one or more critical areas or buffers for which a development proposal has been approved shall ~~file~~ record a notice with the county auditor's office according to the direction of the city. The notice shall state the presence of the critical area(s) or buffer(s) on the property, the application of this chapter to the property, and a listing of the limitations on actions in or affecting the critical area or buffer that may exist. The notice shall note specific requirements that may include but not be limited to the preservation of existing native vegetation; restrictions on access; the prohibition on construction of buildings or other improvements; the prohibition on grading, filling or clearing activities or other requirements as identified in this chapter. The notice shall "run with the land."

B. The notice on title shall not be required for a development proposal by a public agency or public or private utility:

1. Within a recorded easement or right-of-way;
2. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
3. On the site of a permanent public facility.

C. The applicant shall submit proof that the notice has been ~~filed for public~~ recorded before the city grants any final development approval for the property. In the case of subdivisions, short subdivisions or binding site plans, a note on the recorded plat shall satisfy the requirement for a notice on title.

22.10.390 Land divisions.

All proposed divisions of land which include regulated critical areas shall comply with the following procedure and development standard:

A. New lots shall contain at least one building site, including access that is suitable for development and is not within the regulated critical area or its associated buffer or setback in which a restriction of prohibition on alteration is provided by this program.

22.10.400 On-site density transfer for critical areas.

A. An owner of a residential site or property containing critical areas may be permitted to transfer the density attributable to the critical area and associated buffer area or setback to another non-sensitive portion of the same site or property, subject to the limitations of

this section and other applicable regulations.

B. Density can be transferred from the critical portion and associated buffer area or setback to the nonsensitive portion of the residential site subject to the following conditions:

1. The basis for the density transfer will be an actual site plan for the site or property as if it did not have the critical area, subject to the provisions of the underlying zoning classification, applicable setbacks, and other standards of the city code or other land development regulations.

2. Based on the above site plan, a portion of the density that could be achieved on the critical portion and associated buffer or setback of the site can be transferred to the nonsensitive portion of the site. The following chart indicates the amount of density that can be transferred, based on the degree of sensitivity of the critical area:

Category of Critical Area	Percent of Density on Critical Area That May Be Transferred on Site
Category I and II Wetlands	25%
High and Very High Geologically Hazardous Area	25%
Seismic Hazard	25%
Category III and IV Wetlands	100%
Low and Medium Geologically Hazardous Area	100%

3. When transferring the density from the critical portion of the site and its associated buffer or setback to the nonsensitive portion of the site, the overall density of the nonsensitive portion of the site may be increased, provided the additional density does not exceed what would be allowed by the next residential zoning classification. In the case of the highest density multifamily zoning classifications, the density may not be increased beyond the current density.

4. The nonwetland portion of the site is not constrained by another environmentally critical or geologically hazardous area regulated by this code.

5. The nonwetland portion of the site is subject to the lot size and setback requirements of the next residential zoning classification. Land uses and other standards of the city code or other land development regulations shall continue to apply as per the existing zoning classification.

C. An on-site density transfer shall meet the requirements and follow the procedures of:

1. Planned unit development, RMC 23.50.010;

2. Plats and subdivision, RMC Title 24.

D. The fact that development rights have been sold or received, and all related conditions, will be recorded, in a form acceptable to the city attorney, to become a part of the deed of the “sending” and “receiving” properties.

22.10.405 Density bonus for increased buffers.

A. An owner of a residential site or property containing critical areas who chooses to increase the buffers adjacent to a wetland or wildlife habitat area beyond the minimums required under this title shall be permitted to increase the density on the portion of the site that lies outside of a critical area or its required buffer. The amount of density bonus shall be based on the amount of additional buffer lands provided, through a calculation of the area of the additional buffer and/or wildlife corridor proposed on site, expressed as a percentage of the total site area, exclusive of the total wetland, wetland buffer area and/or wildlife corridor as required under the provisions of this chapter. This percentage can then be doubled and applied to the total number of units located within the noncritical area portion of the site to determine the allowed density increase.

An example application of the density bonus provision is as follows: An applicant has a 15-acre site with an identified wetland area and buffer and proposes an additional three-quarter acre of buffer, which translates to five percent of the total site. This entitles the developer to a 10 percent increase in lot count. If the existing zoning permitted 40 lots, the density bonus would entitle the applicant to an additional four lots.

B. In order to qualify for a density bonus:

1. Any additional wetland buffer area must be adjacent to the required wetland buffer area;
2. Any additional habitat buffer area must be adjacent to the required habitat area;
3. A wildlife corridor not otherwise required by this title may qualify for a density bonus; provided, that the fish and wildlife habitat conservation area report prepared by a qualified professional identifies the location of said wildlife corridor as beneficial to priority, threatened or endangered species.

C. When transferring the density from the critical portion of the site and its associated buffer or setback to the nonsensitive portion of the site, the overall density of the nonsensitive portion of the site may be increased, provided the additional density does not exceed what would be allowed by the next residential zoning classification. In the case of the highest density multifamily zoning classifications, the density may not be increased beyond the current density.

22.10.410 Interpretations and appeals.

A. Interpretations and Conflicts. Any question regarding interpretation of these regulations shall be resolved pursuant to the procedures set forth in RMC 23.70.070.

B. Appeals from permit decisions shall be governed by the procedures set forth in Chapter 19.70 RMC.

22.10.415 Penalties.

Any person who has violated any provision of this chapter shall have committed a civil infraction subject to a civil penalty as set forth in RMC 10.02.050(E).

Provided, if the same violator has been found to have committed an infraction violation for the same or similar conduct two separate times, with the violations occurring at the same location and involving the same or similar sections of the Richland Municipal Code or other similar codes, the third or subsequent violation shall constitute a misdemeanor, punishable as provided in RMC 1.30.010 for criminal offenses.

22.10.420 General savings provision – Reasonable [economic](#) use.

A. The standards and regulations of this chapter are not intended, and shall not be construed or applied in a manner, to deny all reasonable economic use of private property. If an applicant demonstrates to the satisfaction of the administrator that strict application of these standards and the utilization of cluster techniques, planned unit development, and transfer of development rights would deny all reasonable economic use of its property, development may be permitted subject to appropriate conditions, derived from this chapter as determined by the administrator and after all variance requests from the hearing examiner have been denied.

B. An applicant for relief from strict application of these standards shall demonstrate the following:

1. That no reasonable use with less impact on the critical habitat and/or hazard area and buffer is feasible and reasonable;
2. That there is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in site layout, reductions in density and similar factors;
3. That the proposed activities, as conditioned, will result in the minimum possible impacts to wetlands and buffers;
4. That all reasonable mitigation measures have been implemented or assured;
5. That all provisions of the city's regulations allowing density transfer on site and off site have been considered;
6. That the inability to derive a reasonable economic use is not the result of the applicant's actions or that of a previous property owner, such as by segregating or dividing the property and creating an undevelopable condition.

22.10.430 No special duty created.

It is the purpose of this chapter to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter. No provision or term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers, agents, or employees for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.

Nothing contained in this chapter is intended to be, nor shall be construed to create or form the basis for any liability on the part of the city or its officers, agents, and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this chapter or be a reason or a consequence of any inspection, notice, or order, in connection with the implementation or enforcement of this chapter, or by reason of any action of the city related in any manner to enforcement of this chapter by its officers, agents or employees.

22.10.435 Unauthorized alterations and enforcement.

A. When a critical area or its buffer has been altered in violation of this chapter, all ongoing development work shall stop and the critical area shall be restored. The administrator shall have the authority to issue a “stop-work” order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner’s or other responsible party’s expense to compensate for violation of provisions of this chapter.

B. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by city. Such a plan shall be prepared by a qualified professional using the currently accepted scientific principles and shall describe how the actions proposed meet the minimum requirements described in subsection (C) of this section. The administrator shall, at the violator’s expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

C. Minimum Performance Standards for Restoration. The following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:

1. The historic structure, functions, and values of the affected critical area shall be restored, including water quality and habitat functions;
2. The historic soil types and configuration shall be restored to the extent practicable;
3. The affected critical area and its buffer shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration;

4. Information demonstrating compliance with other applicable provisions of this chapter shall be submitted to the administrator.

D. Site Investigations. The administrator is authorized to make site inspections and take such actions as necessary to enforce this chapter. The administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

E. Penalties. See RMC 22.10.415.

F. If the critical area affected cannot be restored, money from any associated penalties shall be deposited in a dedicated account for the preservation or restoration of landscape processes and functions in the watershed in which the affected wetland is located. The administrator may coordinate its preservation or restoration activities with others to optimize the effectiveness of the restoration action.

G. Illegal Modifications. Wetland rating categories and/or fish and wildlife conservation area boundaries shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.

22.10.440 Severability.

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter to any person or circumstance shall not affect the validity of the remainder of this chapter or the validity of its application to other persons or circumstances.

22.10.450 Critical area map.

The critical area map and all amendments thereto adopted as part of this code shall be filed in the office of the administrator and may be viewed in the development services division.

Section 2. This Ordinance shall take effect the day following its publication in the official newspaper of the City of Richland.

Section 3. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 4. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including but not limited to the correction of scrivener's errors/clerical errors, section numbering, references, or similar mistakes of form.

PASSED by the City Council of the City of Richland, Washington, at a regular meeting on the 6th day of July, 2021.

Ryan Lukson, Mayor

Attest:

Approved as to form:

Jennifer Rogers, City Clerk

Heather Kintzley, City Attorney

Date Published: July 11, 2021



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Ordinances - Second Reading & Passage

Core Focus Area I - Promote Financial Stability & Operational Effectiveness

Subject:

Ordinance No. 17-21, Amending Chapter 23.70 of the Richland Municipal Code Related to Administration, Enforcement and Amendment

Department:

Development Services

Ordinance/Resolution Number:

17-21

Document Type:

Ordinance

Recommended Motion:

Give second reading and pass Ordinance No. 17-21, amending Chapter 23.70 of the Richland Municipal Code related to administration, enforcement and amendment.

Summary:

Planning staff is proposing a text amendment to three (3) subsections of Chapter 23.70 of the Richland Municipal Code (RMC) relating to administrative variances. The proposed text amendment adds criteria for review and a process for approval/denial of administrative (minor) variances as well as appeals.

The proposed amendment is necessary to improve the variance process and reduce City risk. The current administrative variance process is devoid of criteria or a clear process for review, which makes it challenging to administer and may lead to arbitrary application.

Staff recommends approval of Ordinance No. 17-21 for second reading and passage.

Fiscal Impact:

None.

Attachments:

- I. Ordinance No. 17-21

ORDINANCE NO. 17-21

AN ORDINANCE of the City of Richland amending Chapter 23.70 of the Richland Municipal Code related to administration, enforcement and amendment.

WHEREAS, the City has need, from time to time, to update the Richland Municipal Code (RMC) to eliminate ambiguities; and

WHEREAS, RMC 23.70.080 allowed for administrative approval of minor variances by the City's administrative official; and

WHEREAS, RMC 23.70.080 is difficult to administer because it does not currently contain any criteria by which the City's administrative official can make a sound decision; and

WHEREAS, adding objective criteria to RMC 23.70.080 to aid in its application will ensure that arbitrary and capricious land use decisions are not made.

NOW, THEREFORE, BE IT ORDAINED by the City of Richland as follows:

Section 1. Chapter 23.70 of the Richland Municipal Code, entitled Administration, Enforcement, Amendment, as first enacted by Ordinance No. 28-05, and last amended by Ordinance No. 51-19, is hereby amended as follows:

Chapter 23.70 ADMINISTRATION, ENFORCEMENT, AMENDMENT

Sections:

- 23.70.010 Administration.**
- 23.70.020 Duties of administrative official.**
- 23.70.030 Building permits – Required.**
- 23.70.040 Board of adjustment created – Membership.**
- 23.70.050 Board of adjustment – Rules of procedure.**
- 23.70.060 Board of adjustment – Powers and duties.**
- 23.70.070 ~~Administrative review~~ Appeals to Hearing Examiner – Procedures.**
- 23.70.080 ~~Administrative~~ Minor variances – Administrative review.**
- 23.70.110 Variances – Applications.**
- 23.70.120 Variances – Application – Plans.**
- 23.70.130 Variances – Notices – Hearings.**
- 23.70.140 Variances – Findings.**
- 23.70.150 Variances – Limitations – Conditions.**
- 23.70.160 Decisions of the board of adjustment.**
- 23.70.170 Appeal from board of adjustment.**
- 23.70.180 Amendment.**
- 23.70.190 Initiation of proceedings.**

- 23.70.200 Notice of hearing.**
- 23.70.210 Public hearing and recommendation to council.**
- 23.70.230 Consideration and action by council.**
- 23.70.240 Appeals.**
- 23.70.250 Resubmission of petition.**
- 23.70.270 Violations – Penalties.**
- 23.70.280 Severability.**

23.70.010 Administration.

The administrative official shall administer and be responsible for the enforcement of this title.

23.70.020 Duties of administrative official.

If the administrative official shall find that any of the provisions of this title are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this title to ensure compliance with or to prevent violation of its provisions.

23.70.030 Building permits – Required.

No building or other structure shall be erected, moved, added to, or structurally altered without a building permit issued in accordance with the building code of the city of Richland. No building permit shall be issued except in conformity with the provisions of this title.

23.70.040 Board of adjustment created – Membership.

There is created a board of adjustment consisting of five members appointed by the city council. Members shall serve staggered terms of five years and until their successors are appointed and confirmed.

23.70.050 Board of adjustment – Rules of procedure.

Not less than one regular meeting shall be held in each month of each year; provided, that if no issues over which the board has jurisdiction are pending, a meeting may be cancelled.

23.70.060 Board of adjustment – Powers and duties.

The board of adjustment shall have the following powers and duties:

A. To hear and decide requests for reduction in the number of parking spaces required when parking is jointly shared between two or more uses;

B. To hear and decide applications for special use permits for special uses as specifically authorized under RMC 23.46.025(B) and to grant such permits when it finds that the requirements of this code specifically pertaining to such special uses are fully met. The

board, in granting special use permits, may impose such additional conditions and restrictions as are necessary to make the proposed use compatible with the other uses permitted in the particular use district or in a neighboring district;

C. To hear, decide and grant or deny variances to the regulations or restrictions contained in this title when such variances are in harmony with the general purposes and intent of this title and are in accordance with general or specific rules contained in this title.

23.70.070 ~~Administrative review~~ Appeals to Hearing Examiner – Procedures.

Appeal to the hearing examiner concerning interpretation or administration of this title may be taken by any person aggrieved. Such appeals shall be taken within 10 days from the date of the order, requirement, decision or determination, by filing with the administrative official and with the city clerk a notice of appeal specifying the grounds thereof, together with such fees as set forth in RMC 19.80.020. The administrative official shall transmit to the hearing examiner all papers constituting the record upon which the action appealed from was taken.

The hearing examiner shall fix a time for the hearing of the appeal, which time shall be within 45 days after the filing of the notice of appeal, and shall give 10 days' posted public notice thereof as well as notice in writing to be mailed at least 10 days before said time to the parties in interest. At the hearing, any party may appear in person or by agent or attorney.

23.70.080 ~~Administrative~~ Minor variances – Administrative review.

A. The administrative official may approve without notice a reduction in setback, lot width and/or depth and an increase in lot coverage and building height, none of which exceeds ten (10) percent of the standards of the zone in which the use is located. Minor variances ~~variations~~ shall not allow an increase in the number of dwelling units on a parcel, nor permit a reduction in lot area of any lot.

B. The minor variance may not be used to violate or invalidate any other portions of the municipal code or easements.

C. No minor variance shall be issued when there is an existing violation of this title.

D. Application. An application for a minor variance must be made in writing to the administrative official with the specific degree of variance requested and be accompanied with necessary materials for review as determined by the administrator, including but not limited to a plot plan of the property showing location and dimensions of existing and proposed improvements. The applicant must demonstrate how the proposal meets the criteria in RMC 23.70.110. The application shall be accompanied by such fees as required by RMC 19.80.010.

E. Review. The burden of proof is on the applicant. The application must be supported by clear and convincing evidence that the minor variance conforms to the applicable elements of the City's development regulations and the comprehensive plan. A minor

variance shall be denied unless the applicant demonstrates with clear and convincing evidence that the requested minor variance meets the criteria in RMC 23.70.110.

F. Decision. To grant or deny a minor variance, the administrative official shall issue a written decision stating the precise zoning requirements for which a minor variance is sought and the degree of variance, along with specific written findings showing compliance with this section and addressing the criteria in RMC 23.70.110. If granted, the administrative official's written decision shall also include a finding that the reasons set forth in the application justify granting the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, structure, or buildings. The administrative official shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this title, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

G. Denial. If the administrative official denies a minor variance ~~variation~~ request, an applicant may request approval of the variance ~~request~~ from the board of adjustment through the filing of a variance application in accordance with RMC 23.70.110.

23.70.110 Variances – Applications.

A variance from the terms of this title shall not be granted by the board of adjustment unless and until a written application for variance is submitted demonstrating:

- A. That special conditions and circumstances exist which are peculiar to the land, structures, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
- B. That literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title.
- C. That the special conditions and circumstances do not result from the actions of the applicant.
- D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the same district.

23.70.120 Variances – Application – Plans.

The application shall be accompanied by a report from a title insurance company showing ownership of record of the property involved, an accurate legal description of the property involved, and a list of the names and addresses of all owners of record of property within 100 feet of the proposed variance, and such fees as are required by this title. In addition, the report shall include an accurate key map showing the property involved and delineating the property within 100 feet of the proposed variance. Each parcel falling wholly or partly within the 100-foot distance shall be numbered to correspond with the ownership report.

The application shall also be accompanied by a plot plan of the property showing location and dimensions of existing and proposed improvements and proposed location of accessory facilities such as automobile parking areas. If new building construction is involved, tentative plans and sketches shall also be submitted. Where use of existing buildings is involved, a floor plan showing existing conditions and proposed changes shall be submitted.

23.70.130 Variances – Notices – Hearings.

Written notice of public hearing shall be addressed through the United States mail to the property owner requesting the variance and to the owners of record of all property within 100 feet of the exterior boundaries of subject property pursuant to the title insurance company report required by RMC 23.70.120. Notice of the time and place of the hearing shall also be published at least once in the official newspaper of the city. Both published and mailed notices shall be given at least 10 days in advance of the public hearing.

23.70.140 Variances – Findings.

The board of adjustment shall make findings that the requirements of RMC 23.70.110 have been met by the applicant for the variance. The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, structure, or buildings. The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this title, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

23.70.150 Variances – Limitations – Conditions.

No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

The board of adjustment shall not grant a variance under any circumstances to allow a use not permissible under the terms of this title in the district involved, or any use expressly or by implication prohibited by the terms of this title in said district. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this title.

The board of adjustment may prescribe a time limit within which the action for which the variance is granted shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the variance. In the event that no specific time limit to begin or complete an action for which the variance is granted is identified, the action shall be completed within two years from the date the variance was granted. Said time limits may be extended by the board of adjustment for good cause shown.

23.70.160 Decisions of the board of adjustment.

The concurring vote of a majority of the members of the board of adjustment shall be necessary to decide in favor of the applicant on any matter upon which it is required to pass under this title, or to effect any variation in the application of this title.

The board shall render a decision on all applications at a public meeting no later than 30 days after hearing of an application. The applicant shall be notified of the decision in writing.

23.70.170 Appeal from board of adjustment.

A. Appeals from variance decisions shall be made in accordance with RMC 19.70.060 (Judicial appeals).

B. Appeals from decisions on special use permits or on decisions regarding parking reduction for jointly shared parking facilities shall be made in accordance with Chapter 19.70 RMC (Closed Record Decisions and Appeals).

23.70.180 Amendment.

The regulations, restrictions and boundaries set forth in this title may from time to time be amended, supplemented, changed or repealed; provided, however, that no such action shall be taken until after a public hearing at which parties in interest and citizens shall have an opportunity to be heard.

23.70.190 Initiation of proceedings.

Proceedings for a reclassification or an amendment to this title may be initiated by either of the following two means:

A. The verified petition of one or more persons or corporations requesting the amendment or owning property which is proposed to be reclassified shall be filed with the secretary of the planning commission. A petition for reclassification shall also be accompanied by a report from a title insurance company showing ownership of the property involved and a list of the names and addresses of all owners of property within 300 feet of boundaries of the property involved. In addition, the report shall include an accurate key map showing the property involved and delineating the property within 300 feet of the property involved. Each parcel falling wholly or partly within the 300-foot distance shall be numbered to correspond with the ownership report. The petition shall also be accompanied by such fees as are required by RMC 19.80.020;

B. On the request of the city council or by the planning commission, on its own initiative.

23.70.200 Notice of hearing.

Notice of public hearing consistent with the requirements of Chapter 19.40 RMC shall be published at least once in the official newspaper of the city. In addition, written notice shall be mailed to the owner or owners of the property involved, and to all property owners of record within a radius of 300 feet of the exterior areas of subject property pursuant to the title insurance company report required by RMC 23.70.190. Both published and mailed notices shall be given at least 10 days in advance of the public hearing.

23.70.210 Public hearing and recommendation to council.

A. Reclassification. The hearing examiner shall conduct an open record public hearing as required by RMC Title 19 for a Type IIIA permit application. The recommendation shall include written findings of fact and the reasons for the hearing examiner's action; and shall refer expressly to the maps, description and other matters intended by the hearing examiner to constitute the reclassification.

B. Amendment. The planning commission shall conduct an open record public hearing as required by RMC Title 19 for a Type IV permit application. The recommendation to the city council of any amendment hereto by the planning commission shall be by the affirmative vote of not less than a majority of the total members of the commission. The recommendation shall be by a recorded motion, which shall include written findings of fact of the commission and the reasons for its action; and the motion shall refer expressly to the specific language of the proposed amendment and any other graphics or materials intended by the commission to constitute the amendment. The secretary of the planning commission shall prepare and sign an action summary of the commission's recommendation, which shall be forwarded to the city clerk for scheduling for city council consideration.

23.70.230 Consideration and action by council.

The planning commission's or hearing examiner's recommendation on any reclassification or amendment, together with other reports, maps, documentation and recommendations, shall be considered by the city council in accordance with the provisions and requirements of RMC Title 19 (Development Regulation Administration).

The council may, by ordinance, adopt or adopt with modification, any reclassification or amendment which the planning commission or hearing examiner has made a recommendation on, or by motion reject the reclassification or amendment.

The council may refer any request for reclassification or amendment back to the planning commission or hearing examiner for further review and recommendation.

23.70.240 Appeals.

Appeals from city council decisions on requests for reclassification or amendment shall be made in accordance with RMC 19.70.060 (Judicial appeals).

23.70.250 Resubmission of petition.

A petition for reclassification or amendment which has been disapproved by the council cannot be resubmitted to the city within six months of the date of disapproval, without a waiver of the council.

23.70.270 Violations – Penalties.

Any person who has violated any provision of this title shall have committed a civil infraction subject to a civil penalty as set forth in RMC 10.02.050(E).

Provided, if the same violator has been found to have committed an infraction violation

for the same or similar conduct two separate times, with the violations occurring at the same location and involving the same or similar sections of the Richland Municipal Code or other similar codes, the third or subsequent violation shall constitute a misdemeanor, punishable as provided in RMC 1.30.010 for criminal offenses.

For any violation of a continuing nature, each day's violation shall be considered a separate offense and shall subject the offender to the above penalties for each offense.

In addition to the enforcement provisions of this section, any violation of any of the provisions of RMC 23.42.030 is declared to be a public nuisance, per se, which shall be abated by the city attorney by way of civil abatement procedures.

23.70.280 Severability.

If any section, subsection, sentence, clause, phrase of any portion of this title is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this title. The city council of the city of Richland hereby declares that it would have adopted this title and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 2. This Ordinance shall take effect the day following its publication in the official newspaper of the City of Richland.

Section 3. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 4. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including but not limited to the correction of scrivener's errors/clerical errors, section numbering, references, or similar mistakes of form.

PASSED by the City Council of the City of Richland, Washington, at a regular meeting on the 6th day of July, 2021.

Ryan Lukson, Mayor

Attest:

Approved as to form:

Jennifer Rogers, City Clerk

Heather Kintzley, City Attorney

Date Published: July 11, 2021



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Resolutions - Adoption

Core Focus Area 2 - Manage & Maintain Infrastructure & Facilities

Subject:

Resolution No. 68-21, Authorizing a Consultant Agreement with RH2 Engineering, Inc. related to the Center Parkway South Extension Project

Department:
Public Works

Ordinance/Resolution Number:
68-21

Document Type:
Resolution

Recommended Motion:

Adopt Resolution No. 68-21, authorizing the City Manager to sign and execute a consultant agreement with RH2 Engineering, Inc. for the Center Parkway South Extension project.

Summary:

The 2021-2026 Capital Improvement Plan and the 2021-2026 Transportation Improvement Program each include a project titled Center Parkway South Extension (the "Project"). This Project is intended to complete a segment of the south Richland collector street system and thus improve connectivity to development south of Gage Boulevard by constructing a new roadway between the Clearwater Creek subdivision and Leslie Road, crossing the south end of the Amon Creek Nature Preserve.

The Project requires environmental assessments and permitting beyond the technical capabilities of staff. In November 2020, the City entered into a consultant agreement with RH2 Engineering, Inc. to provide environmental and design services specifically related to the Project's crossing of the wetland within the Amon Creek Nature Preserve. That agreement expired May 31, 2021, and did not anticipate the complexity of regulatory oversight and permitting that has emerged during project development. The new proposed agreement with RH2 Engineering, Inc. is necessary to complete project permitting and design.

The City's best interests are served by executing the proposed agreement to allow the City to complete the Project in accordance with the Capital Improvement Plan and the Transportation Improvement Program.

Staff recommends adoption of Resolution No. 68-21.

Fiscal Impact: Approved project budget is \$2,405,000. Expenses to-date total approximately \$206,000 leaving an available project budget of \$2,199,000. The total cost of the proposed agreement with RH2 Engineering, Inc. will not exceed \$110,805.

Attachments:

1. Resolution No. 68-21
2. Proposed Center Parkway Extension - RH2 Consultant Agrmt

RESOLUTION NO. 68-21

A RESOLUTION of the City of Richland authorizing a consultant agreement with RH2 Engineering, Inc. for the Center Parkway South Extension – Leslie Road to Clearwater Avenue project.

WHEREAS, the 2021-2026 Capital Improvement Plan (CIP) and the 2021-2026 Transportation Improvement Program (TIP) both include a project entitled Center Parkway South Extension (the “Project”); and

WHEREAS, the Project is intended to complete a segment of the south Richland collector street system and thus improve connectivity to development south of Gage Boulevard; and

WHEREAS, the Project will construct a new roadway between the Clearwater Creek subdivision and Leslie Road, crossing the south end of the Amon Creek Nature Preserve; and

WHEREAS, the Project requires environmental assessments and permitting beyond the technical capabilities of staff; and

WHEREAS, in November 2020, the City entered into a consultant agreement with RH2 Engineering, Inc. to provide environmental and design services specifically related to the Project’s crossing of the wetland within the Amon Creek Nature Preserve; and

WHEREAS, the original agreement, which has since expired, did not anticipate the complexity of regulatory oversight and permitting that has emerged during project development; and

WHEREAS, the proposed updated agreement is necessary to complete project permitting and design; and

WHEREAS, the City’s best interests are served by executing the proposed agreement, allowing the City to complete the Project in accordance with the Capital Improvement Plan and the Transportation Improvement Program.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the City Manager is authorized to sign and execute the consultant agreement with RH2 Engineering, Inc. for the purpose of completing the Center Parkway South Extension project.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 6th day of July, 2021.

Ryan Lukson, Mayor

Attest:

Approved as to form:

Jennifer Rogers, City Clerk

Heather Kintzley, City Attorney



AGREEMENT BETWEEN CITY AND CONSULTANT

Center Parkway Extension – Environmental Services

This Agreement is entered into this _____ day of July, 2021 (“Effective Date”) by and between the **City of Richland** (“**City**”), a Washington municipal corporation located at 625 Swift Blvd. Richland, WA 99352, and **RH2 Engineering, Inc.** (“**Consultant**”), a Washington for-profit corporation with service at 114 Columbia Point Drive, Richland, WA. **City** and **Consultant** are referred to individually herein as a “Party” and collectively herein as the “Parties.”

WITNESSETH:

1. SCOPE OF WORK

- a. Consultant shall furnish all services, labor and related equipment necessary to conduct and complete the work outlined in Exhibit A. In performing these services, Consultant shall at all times comply with all federal, state and local statutes, rules and ordinances applicable to the performance of such services. In addition, these services and all duties incidental or necessary therefore, shall be performed diligently and completely and in accordance with professional standards of conduct and performance. All services performed under this Agreement will be conducted solely for the benefit of the City and will not be used for any other purpose without written consent of the City.
- b. This Agreement consists of this Agreement and other documents listed below. These form the entire Agreement between the Parties, and are fully integrated into this Agreement as if stated or repeated herein. In the event of a conflict between documents, the order of precedence will be the order listed below. An enumeration of the Agreement documents is set forth below (mark all that apply):
 1. ☒ City of Richland Agreement No. _____
 2. ☒ Exhibit A: Scope of Work
 3. ☐ City Richland Solicitation No. n/a
 4. ☐ Exhibit B: Solicitation No. n/a proposal response submitted by Consultant dated n/a.
 5. ☒ Additional Documents – Exhibit A - Scope of Work.

2. TIME FOR COMPLETION

Consultant shall not begin any work under the terms of this Agreement until authorized in writing by the City. Consultant agrees to use best efforts to complete all work described under this Agreement by December 31, 2022.

3. TERM

The term of this Agreement shall commence on the Effective Date identified above and end at midnight on December 31, 2022.

4. PAYMENT

- a. Services rendered by Consultant under this Agreement will be paid at the rate set forth in Exhibit A Scope of Work, but in no event shall the total compensation for services rendered under this Agreement exceed **One Hundred Ten Thousand Eight Hundred Five (\$110,805.00)**, including all fees and those reimbursable expenses listed in Exhibit A.
- b. City shall pay Consultant for services rendered after receipt of a detailed invoice. Invoices not in dispute by the City will be paid net thirty (30) days and shall reference the contract number and/or purchase order applicable to the work. The invoice shall provide sufficient detail on the work being billed and include detailed receipts for any invoices.
- c. Partial payments to cover the percentage of work completed may be requested by Consultant. These payments shall not be more than one (1) per month.
- d. Pre-approved travel, meals and lodging will be reimbursed at cost and only when consultant travels at least 150 miles per one way trip. Reimbursable expenses are limited to the following: coach airfare, ground transportation (taxi, shuttle, car rental), hotel accommodations as provided below, personal or company vehicle use at the then-current federal mileage rate, and meals at the current federal per-diem meal allowance or up to the current federal per-diem with detailed receipts, no alcohol, and a 20% maximum gratuity.
 - i. Hotel accommodations: eligible lodging expenses include the room cost only; itemized receipts must be provided for hotel reimbursements.
 - ii. Hotel reimbursement is limited to the single room rate. If two or more consultants are sharing a room, reimbursement is allowable for only one consultant at the double room rate.
 - iii. The maximum reimbursement should be limited to the best discount rate available and allowable that meets traveler's business needs and basic needs for health, safety and cleanliness. Non-smoking rooms are authorized even if they are more expensive.
- e. Reimbursement for extra services/reimbursable expenses are not authorized under this Agreement unless detailed in the Scope of Work or agreed upon in writing as a modification to this Agreement.
- f. Consultant will allow access to the City, State of Washington, Federal Grantor Agency, Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions. Unless otherwise provided, said records must be retained for three (3) years from the date of receipt of final payment. If any litigation, claim, or audit arising out of, in connection with, or relating to this Agreement is initiated before the expiration of the three-year period, the records shall be retained until such litigation, claim, or audit involving the records is completed.

5. INDEPENDENT CONTRACTOR

Consultant, and any and all employees of Consultant or other persons engaged in the performance of any work or services required of Consultant under this Agreement, are independent contractors and shall not be considered employees of the City. Any and all claims

that arise at any time under any Workers' Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of Consultant's employees or other persons engaged in any of the work or services required to be provided herein, shall be the sole obligation and responsibility of Consultant.

6. OWNERSHIP OF DOCUMENTS

Any and all data, analyses, documents, photographs, plans, designs, drawings, specifications, surveys, films, documents, reports and other work products created, prepared, produced, constructed, assembled, made, performed, or otherwise produced by Consultant or Consultant's subcontractors for delivery to the City pursuant to this Agreement shall become the sole and absolute property of the City upon completion of the services and payment in full of all payment due to Consultant of the fees set forth in this Agreement. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the City at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which Consultant uses to perform this Agreement but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the City is owned by Consultant and is not "work made for hire" within the terms of this Agreement. Consultant will ensure that all independent contractors have written agreements in place that transfers ownership of all Intellectual Property created by them or provided by them to the City.

The City may make or permit to be made any modifications to the plans and specifications without the prior written authorization of Consultant. The City agrees to waive any claim against Consultant arising from any unauthorized reuse of the plans and specifications, and to indemnify and hold Consultant harmless from any claim, liability or cost arising or allegedly arising out of any reuse of the plans and specifications by the City or its agent not authorized by Consultant.

7. TERMINATION

- a. This Agreement may be terminated by either Party upon thirty (30) days' written notice. In the event this Agreement is terminated by Consultant, the City shall be entitled to reimbursement of costs occasioned by such termination. In the event the City terminates this Agreement, the City shall pay Consultant for the work performed, which shall be an amount equal to the percentage of completion of the work as mutually agreed between the City and Consultant.
- b. If any work covered by this Agreement shall be suspended or abandoned by the City before Consultant has completed the assigned work, Consultant shall be paid an amount equal to the costs incurred up to the date of termination or suspension as mutually agreed upon between the City and Consultant.

8. AVAILABILITY OF RECORDS FOR PUBLIC INSPECTION

- a. As a public contract, all records prepared, generated or used by Consultant or its agents, employees and subcontractors relating to this Agreement and associated work (hereinafter "public records") may be subject to disclosure under the Washington State Public Record Act, Chapter 42.56 RCW.
- b. Contractor shall maintain and retain all such public records in a manner that is readily accessible for a minimum term of no less than three (3) years following completion of the contract work. City shall have the right to timely review all such public records upon

request. Contractor shall provide copies of any public records requested by City within thirty (30) calendar days of City's request. If City requests that copies of public records be provided to City in an electronic format, said records shall be provided at no cost to City. If paper copies are requested by City, City shall pay \$.10 per page. Payment for paper copies shall be rendered to Consultant within twenty (20) calendar days of receipt.

- c. All records subject to a public disclosure request will be provided to a requester unless exempted from disclosure by law. The City's decision to exempt or redact any public record shall be based only upon valid exemptions that apply to the City. City will not refrain from disclosing any record under an exemption that may be personal to Consultant. In the event Consultant objects to release of any public record under this Agreement, Consultant may seek judicial approval to prevent such disclosure at Consultant's sole expense. City shall neither aid nor interfere with Consultant's request for an injunction to prevent disclosure of any public record under this Agreement.
- d. Consultant shall insert this provision in all contracts with subcontractors or agents providing services relating to this Agreement.

9. DISPUTE RESOLUTION

- a. The City and Consultant agree to negotiate in good faith for a period of thirty (30) days from the date of notice of all disputes between them prior to exercising their rights under this Agreement, or under law.
- b. All disputes between the City and Consultant not resolved by negotiation between the Parties may be arbitrated only by mutual agreement of the City and Consultant. If not mutually agreed to resolve the claim by arbitration, the claim will resolve by legal action.

10. DEBARMENT CERTIFICATION

Consultant certifies that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this contract by any federal or state department or agency. Further, Consultant agrees not to enter into any arrangements or contracts related to completion of the work contemplated under this Agreement with any party that is on the "General Service Administration List of Parties Excluded from Federal Procurement or Non-Procurement Programs" which can be found at: www.sam.gov and <https://secure.lni.wa.gov/verify/>

11. VENUE, APPLICABLE LAW AND PERSONAL JURISDICTION

In the event that either Party deems it necessary to initiate a legal action to enforce any right or obligation under this Agreement, the Parties agree that any such action shall be initiated in the Superior Court of the State of Washington situated in Benton County. The Parties agree that all questions shall be resolved by application of Washington law, and that the Parties to such action shall have the right of appeal from such decision of the Superior Court in accordance with the laws of the State of Washington. Consultant hereby consents to the personal jurisdiction of the Superior Court of the State of Washington situated in Benton County.

12. ATTORNEY'S FEES

The Parties agree that should legal action be necessary to enforce any of the provisions of this Agreement, that the substantially prevailing Party will be awarded its reasonable attorney's fees and costs in action, including costs and attorney's fees on appeal if appeal is taken.

13. **INSURANCE**

Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, or employees.

- a. No Limitation. Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- b. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:
 1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
 2. Commercial General Liability insurance shall be as least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.
 3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
 4. Professional Liability, Errors or Omissions insurance appropriate to the Consultant's profession. Coverage shall be provided if Consultant is providing services under this Agreement as a licensed professional, including, but not limited to, engineers, architects, accountants, surveyors, and attorneys.
- c. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:
 1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
 2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate.
 3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
- d. Other Insurance Provisions. Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of Consultant's insurance and shall not contribute with it.

- e. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- f. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of Consultant before commencement of the work.
- g. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two (2) business days of Consultant's receipt of such notice.
- h. Failure to Maintain Insurance. Failure on the part of Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days' notice to Consultant to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due Consultant from the City.
- i. Public Entity Full Availability of Consultant Limits. If Consultant maintains higher insurance limits than the minimum shown above, the City shall be insured for the full available limits of the Commercial General and Excess or Umbrella liability maintained by Consultant, irrespective of whether such limits maintained by Consultant are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by Consultant.

14. INDEMNIFICATION / HOLD HARMLESS

- a. Consultant shall defend, indemnify, and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the willful or negligent acts, or alleged willful or alleged negligent acts, errors or omissions of the Consultant or the Consultant's employees or agents in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.
- b. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this section shall survive the expiration or termination of this Agreement.

15. STANDARD OF CARE

The professional services will be furnished in accordance with the care and skill ordinarily used by members of the same profession practicing under similar conditions at the same time and in the same locality.

16. SUCCESSORS OR ASSIGNS

All of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the Parties hereto, and their respective successors and assigns; provided, however, that no assignment of the Agreement shall be made without written consent of the non-assigning Party, which may be given in the non-assigning Party's sole discretion.

17. NOTICES

Any notices required under this Agreement will be in writing, addressed to the appropriate Party at the address which appears below (as modified in writing from time to time by such party), and given by electronic submission, by facsimile personally, by registered or certified mail, return receipt requested, or by nationally recognized overnight courier service. All notices shall be effective upon the date sent.

Purchasing Manager
City of Richland
625 Swift Blvd., MS-11
Richland, WA 99352
Email: purchasing@ci.richland.wa.us
Phone: (509) 942-7710
Fax: (509) 942-7397

Contact Name: Paul Cross
Name of Firm: RH2 Engineering, Inc.
Address: 114 Columbia Point Drive, Ste. C
Address: Richland, WA 99352
Email: pcross@rh2.com
Phone Number: (509) 866-6767
Fax Number: [Click here to enter text.](#)

18. EQUAL OPPORTUNITY AGREEMENT

Consultant agrees that Consultant will not discriminate against any employee or job applicants for work under this Agreement for reasons of race, sex, nationality, religious creed, or sexual orientation.

19. SEVERABILITY

If any provision of this Agreement conflicts with applicable law, or its application is found to be invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected, and to this end, the terms of this Agreement are declared to be severable.

20. AMENDMENTS

All amendments must be in writing and be approved and signed by both Parties.

21. CHANGE IN LAW

The Parties hereto agree that in the event legislation is enacted or regulations are promulgated, or a decision of court is rendered, or any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation is published that affects or may affect the legality of this Agreement or any part thereof or that materially and adversely affects the ability of either Party to perform its obligations or receive the benefits intended hereunder ("Adverse Change in Law"), then within fourteen (14) calendar days following written notice by either Party to the other Party of such adverse change in law, the Parties shall meet to negotiate in good faith an amendment which will carry out the original intention of the Parties to the extent possible. If, despite good faith attempts, the Parties cannot reach agreement upon an amendment within sixty (60) calendar days after commencing negotiation, then this Agreement may be terminated by either Party as of the earlier of: (i) the effective date of the adverse change in law, or (ii) the expiration of a period of sixty (60) days following written notice of termination provided by one Party to the other.

22. CONFIDENTIALITY

In the course of performing under this Agreement, Consultant, including its employees, agents or representatives, may receive, be exposed to, or acquire confidential information. Confidential information may include, but is not limited to, patient information, contract terms, sensitive employee information, or proprietary data in any form, whether written, oral, or contained in any computer database or computer readable form. Consultant shall: i) not disclose or sell confidential information except as permitted by this Agreement; (ii) only permit use of such confidential information by employees, agents and representatives having a need to know in connection with performance under this Agreement; and (iii) advise each of its employees, agents, and representatives of their obligations to keep such information confidential.

23. CHANGES OF WORK

- a. When required to do so, and without any additional compensation, Consultant shall make such changes and revisions in the completed work of this Agreement as necessary to correct or revise any errors, omissions, or other deficiencies in the design, drawings, specifications, reports, and other similar documents which Consultant is responsible for preparing or furnishing under this Agreement.
- b. Should the City find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, Consultant shall make such revisions as directed by the City. This work shall be considered as Extra Work and will be paid for as herein provided under Section 24, Extra Work.

24. EXTRA WORK

The City may desire to have Consultant perform work or render additional services within the general scope of this Agreement. Such work shall be considered as extra work and will be specified in a written supplement to this Agreement which will set forth the nature of the scope, schedule for additional work, additional fees and the method of payment. Work under a supplemental Agreement shall not proceed until authorized in writing by the City.

25. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the Parties hereto and supersedes all previous understandings and agreements, written and oral, with respect to this transaction. Neither Party shall be liable to the other for any representations made by any person regarding the terms of this Agreement, except to the extent that the same are expressed in this Agreement.

26. AUTHORITY TO EXECUTE

Each person executing this Agreement on behalf of another person, corporation, partnership, company, or other organization or entity represents and warrants that he or she is fully authorized to so execute and deliver this Agreement on behalf of the entity or party for which he or she is signing. The Parties hereby warrant to each other that each has full power and authority to enter into this Agreement and to undertake the actions contemplated herein, and that this Agreement is enforceable in accordance with its terms.

27. COUNTERPART ORIGINALS

Execution of this Agreement and any amendment or other document related to this Agreement may be by electronic signature and in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one whole agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

CITY OF RICHLAND

CONSULTANT

Jon Amundson, ICMA-CM
Interim City Manager

Signature

Attest:

Printed Name

Jennifer Rogers, City Clerk

Title

Approved as to form:

Heather Kintzley, City Attorney

DRAFT

EXHIBIT A: Detailed Scope of Work

See Scope of Work attached

DRAFT

EXHIBIT A
Scope of Work
City of Richland
Center Parkway Extension
Environmental Design and Permitting
June 2021

Background

RH2 Engineering, Inc., (RH2) contracted with the City of Richland (City) in November 2020 to provide environmental services for the City's Center Parkway Extension project. The project will construct a new roadway extending from Lorayne J Boulevard at Leslie Road across the Amon Creek Natural Preserve (ACNP) to the existing Center Parkway roadway that recently was extended as part of the Hayden Homes development.

Environmental services scoped by RH2 under the November 2020 agreement included the following.

- Task 1 – Critical Areas Investigations
- Task 2 – Preliminary Critical Areas Report (CAR) and Conceptual Mitigation Plan
- Task 3 – Final CAR and Mitigation Design
- Task 4 – Permitting Assistance
- Task 5 – Culvert Design Assistance

The November 2020 agreement optimistically included critical areas investigation work; preliminary and final CAR preparation; conceptual, preliminary, and final mitigation and culvert designs; agency and stakeholder coordination; and permitting assistance. However, as the project has progressed, several changes occurred, additional project details were determined, stakeholder and agency feedback was received, and the anticipated design and permitting effort was better defined. Consequently, the work performed by RH2 under the original agreement was limited and more reflective of a conceptual and preliminary design level of effort. Work performed included:

- Critical areas investigations to delineate and classify stream/wetland habitat associated with the ACNP, and completion of a rating for categorization of wetland habitat (Task 1);
- Agency and project stakeholder consultation regarding the project, field work and reporting requirements, design standards, and regulation of the Amon Wasteway (Task 2);
- Documentation of critical areas delineations and existing site conditions in a preliminary CAR (Task 2);
- Determination of mitigation requirements and preparation of a conceptual mitigation figure based on the City's Critical Areas Ordinance (CAO)(Task 2);
- Permitting assistance in support of cultural resources compliance and Bonneville Power Association (BPA) corridor crossings (Task 3); and

- Preliminary culvert design for the crossing of the West Form (WF) of Amon Wasteway, including evaluation of culvert styles, materials, and costs, coordination with manufacturers, and preparation of a preliminary Culvert Design Technical Memorandum (Task 5).

This Scope of Work is intended as a standalone agreement, one that builds on the work completed in the November 2020 agreement. This Scope of Work details the anticipated effort to advance the project from the current conceptual and preliminary environmental permitting and design levels through final design, obtaining permit approvals, and producing bid-ready designs for construction.

Task 1 – Critical Areas Site Investigation and Rating

Work Completed: Under the November 2020 agreement, RH2 reviewed background data and reports, consulted with agency and stakeholder staff, and performed initial field investigations, wetland delineations, and rating. When the initial agreement was executed, the City desired construction timing in the 2021/2022 season. RH2 consulted with City Planning and Washington State Department of Ecology (Ecology) staff prior to investigations. These agencies stated a secondary growing season specific site investigation would be required to confirm delineated boundaries and wetland classification. As the City's desired construction timing necessitated completion of field work shortly after contract execution, the City and RH2 discussed, deciding to proceed with initial investigations in late November 2020 and plan for additional site visit in spring 2021. Secondary site investigations were beyond the original scope and are included in this Task as a result.

Objective: Perform secondary growing season specific site investigation to confirm initial delineated wetland boundaries. Update and finalize wetland rating and field data for inclusion in the CAR.

Approach:

- 1.1 Perform secondary growing season site investigation to confirm November 2020 delineated boundaries and wetland rating. Finalize the wetland rating and maps using the information and data collected during the growing season site visit. Collect additional site photographs and data. Incorporate field investigation results and data into subsequent permitting and design efforts.

RH2 Deliverables:

- Additional site investigation data will be included in the CAR and used for mitigation design.

Task 2 – Conceptual and Preliminary Mitigation Design and CAR

Work Completed: Under the November 2020 agreement, RH2 consulted with agency and project stakeholder staff, including City Planning, Ecology, Washington Department of Fish and Wildlife (WDFW), the US Army Corps of Engineers (USACE), and Kennewick Irrigation District (KID), regarding the project, regulations, design, etc. RH2 prepared a preliminary CAR to document the initial site investigation, determined mitigation requirements for anticipated project impacts, and prepared a conceptual mitigation exhibit for City and BPA discussions.

At the time of the original contract execution, it was anticipated that mitigation for Center Parkway roadway impacts to the ACNP could be completed east and west of the Amon Wasteway, on both City and BPA property. Through evaluation of conceptual mitigation approaches and coordination with BPA, the City and RH2 determined that substantial mitigation activities on BPA property east of

the Amon Wasteway would not be viable; consequently, mitigation needs to occur solely on City property. This determination will limit the viable approaches for mitigation.

In addition, the City and RH2 assessed inclusion of a pedestrian bridge as a replacement for the current BPA access culvert; this was evaluated because it would aid in minimizing mitigation area and was supported by project stakeholders during the Rachel Road Alternatives Analysis, conducted in 2017. As costs and styles varied significantly for pedestrian bridges, RH2 and the City evaluated a few options to obtain a clear understanding of anticipated costs. Through this analysis, the City determined costs were too prohibitive to proceed with the pedestrian bridge replacement. However, it was decided that the BPA access culvert would be removed, allowing for mitigation design within that corridor.

Through the pedestrian bridge evaluation, the City consulted the Parks Department (Parks), who indicated they planned to replace the informal gravel access roadway and parking area west of the BPA access culvert. Through Public Works and Parks discussions, the City now plans replace the current informal BPA access and parking area with a proposed parking area north of the Center Parkway extension.

Together, the agency feedback from initial project execution, BPA feedback on conceptual mitigation approach, evaluation of the pedestrian bridge, and the addition of a new parking and gravel access roadway, have resulted in several new project scope items. This work was not included in the original agreement; therefore, it is captured in this Task.

Objective: Refine preliminary CAR and mitigation concepts to reflect site investigations, wetland rating, City and agency feedback, and design progression. Meet with agency staff and stakeholders to present and discuss project design, impacts, and mitigation concept. Revise the preliminary CAR to incorporate agency and stakeholder feedback. Prepare preliminary mitigation plans for inclusion in the preliminary CAR. Submit preliminary CAR and mitigation plans for agency reviews. Evaluate pedestrian bridge options and provide recommendation for City determination of possible inclusion in the mitigation concept/design.

Approach:

- 2.1 Refine the preliminary CAR to include the results of the secondary site investigation, current project design, anticipated impacts to critical areas, mitigation sequencing, and conceptual mitigation. Research and compile recommendations for mitigation design, including plant species/communities, habitat features, and sagebrush-steppe restoration. Refine the conceptual mitigation narrative and figure for inclusion in the preliminary CAR. *It is assumed the preliminary CAR and conceptual mitigation materials will be used for pre-permit submittal discussions with agency staff and project stakeholders.*
- 2.2 Coordinate with City staff to organize and attend up to two (2) meetings with agency and project stakeholders to present and discuss project design and conceptual mitigation ahead of permit submittals. *Meetings are assumed to be needed for pre-permit submittal coordination with City Planning staff, Ecology, and Tapteal Greenway.* Prepare draft meeting agenda. Provide meeting materials package to the City for review and comment. Finalize and provide meeting

materials electronically to meeting participants. *It is assumed meetings will be virtual with attendance by up to two (2) RH2 staff members.*

- 2.3 Revise the preliminary CAR following agency and stakeholder meetings. Prepare preliminary Mitigation Plan sheets to accompany initial permit submittals. Provide the refined preliminary CAR with Mitigation Plan sheets to the City for review and comment. Finalize with City review comments and submit to regulatory agencies.
- 2.4 Evaluate removal of the BPA culvert that crosses the Amon Wasteway and restoration of the area, possibly including replacement of the culvert with a pedestrian bridge. This concept supports project stakeholder feedback received during the *Rachel Road Alignment Study*, conducted by The Langdon Group, a subsidiary of J-U-B Engineering, Inc., and the City. This concept also enables creation of wetland habitat and rehabilitation of the wasteway at the BPA access corridor, advancing the compensatory mitigation design. Assist with evaluation of this concept as follows:
- Discuss the feasibility, advantages, and disadvantages of culvert removal and wetland creation at the BPA access culvert with the City.
 - Identify and compare up to four (4) options for pedestrian bridge replacement of the BPA access culvert. Provide a summary email of options to facilitate City discussion, budget consideration, and discussion with BPA. *It is assumed the City will make a go/no-go determination for inclusion of the pedestrian bridge in the mitigation design.*

Assumptions:

- *Mitigation will not be feasible in the BPA-owned property (parcel no. 1-0188-300-0002-000). Instead, mitigation design will focus on City property (parcel no. 1-0188-200-0001-003). To inform RH2's mitigation design, the City will obtain additional topographic survey west of the delineated WF of Amon Wasteway wetland boundary to Leslie Road.*
- *Preliminary Mitigation Plan sheets will include plan and profile views, plant material legend, and notes (up to two (2) sheets).*
- *Coincident with this Scope of Work preparation, the City determined inclusion of a pedestrian bridge in place of the existing BPA access culvert was cost prohibitive. Instead, mitigation design will include removal of the BPA access culvert and creation of wetland and buffer habitat in the existing access roadway corridor and informal parking areas. The informal gravel access roadway and parking area west of the BPA access culvert will be replaced with a proposed parking area on the east side of Leslie Road, north of the proposed roadway extension, which will include a gravel pathway to connect to the Center Parkway multi-use pathway. This new scope element will add work for mitigation design and is being funded by Parks. Consequently, this Scope of Work assumes the following: 1) no additional work beyond subtask 2.4 is needed with respect to the pedestrian bridge; 2) the BPA access corridor and crossing will be restored to the extent practicable as part of the project's mitigation design; and 3) the parking lot impacts will be included in calculations of mitigation requirements and design, and this element will be accommodated in the proposed culvert designs.*

Provided by City:

- Review and comment on preliminary CAR and conceptual Mitigation Plan for agency and stakeholder discussions.
- Input on meeting agenda and joint coordination with agency staff and project stakeholders to arrange pre-permit submittal meetings, and attendance at meetings.
- Review and comment on the preliminary CAR and Mitigation Plans for permit submittals.
- Coordination with BPA to determine viability for both mitigation activities in the power line corridor and removal of the access culvert/replacement with a pedestrian bridge.
- Evaluation of, feedback on, and determination of a go/no-go decision for the BPA corridor pedestrian bridge.

RH2 Deliverables:

- Electronic copy (PDF) of the preliminary CAR, including conceptual mitigation figure/narrative.
- Meeting agenda and attachments package in electronic (PDF) format for discussion with agency staff and project stakeholders.
- Attendance at virtual agency and project stakeholder meetings.
- Electronic copy (PDF) and up to one (1) hard copy of the refined preliminary CAR, including preliminary Mitigation Plan sheets for initial permit submittals.
- Research and compile up to four (4) pedestrian bridge options with cost estimates from suppliers. Summarize options in an email to the City.

Task 3 – Final Mitigation Design and CAR

Work Completed: No work was completed under the November 2020 agreement for final mitigation design or CAR production.

Objective: Prepare final and bid-ready mitigation design plans, including technical specifications and cost estimate. Finalize the preliminary CAR to reflect agency reviews and final design.

Approach:

- 3.1 Prepare 60-percent mitigation plans, technical specifications, and estimate, herein referred to as mitigation PS&E. Perform internal quality assurance and quality control (QA/QC) review of the 60-percent mitigation PS&E package. Provide 60-percent mitigation PS&E to the City for review and incorporation into the plan set. Revise mitigation PS&E to address City comments.
- 3.2 Revise and finalize the CAR to address City and agency reviews from initial permit submittals, as well as design progression. Provide revised CAR to City for review and comment, then finalize CAR for secondary permit submittals and/or project bidding, as needed. *It is assumed the final*

CAR will incorporate 60- or 90-percent design levels, depending on the progression of permit reviews and design preparation by both the City and RH2.

- 3.3 Prepare 90-percent mitigation PS&E by refining the package to address City and agency review comments, and design progression. Perform internal QA/QC review of the 90-percent mitigation PS&E package. Provide the 90-percent mitigation PS&E to the City for review and incorporation into the plan set. Revise mitigation PS&E to address City review comments.
- 3.4 Prepare bid-ready mitigation PS&E. Provide electronic bid-ready mitigation PS&E to the City for bidding. *No hard copies have been included for RH2 production for bidding; it is assumed that City will handle all bidding prints, as needed.*

Assumptions:

- *Mitigation design plans will include plan, profile, section, notes, and details (up to three (3) sheets), including removal of the BPA access culvert and restoration of the wasteway within the current BPA gravel access and informal parking area.*
- *Specification and estimate preparation, and QA/QC reviews of the mitigation PS&E 60-, 90- and bid-ready packages will be completed coincident with the effort scoped in Task 5 for the culvert PS&E development.*
- *The City will complete project bidding and construction administration. RH2 effort for these elements will be handled via amendment to this Scope of Work, if needed.*

Provided by City:

- AutoCAD® and electronic (PDF) design plans to facilitate RH2 design plan preparation.
- Preferred specification and cost estimate format, if applicable.
- City cost estimate to ensure RH2 formatting, quantities, and bid items are consistent.
- Review and comment on revised CAR for finalization.
- Review and comment on mitigation PS&E at 60- and 90-percent design stages.

RH2 Deliverables:

- Electronic copies (PDF, AutoCAD, MS Excel) of 60- and 90-percent and bid-ready mitigation PS&E.
- Revised CAR in electronic (PDF) format and final CAR in electronic (PDF) format and up to one (1) hard copy.

Task 4 – Permitting

Work Completed: Under the November 2020 agreement, RH2 consulted with Ecology and USACE agency staff regarding regulation of the WF Amon Wasteway. RH2 recorded agency discussions, reviewed with the City, and prepared summary emails of agency feedback to facilitate City discussion with KID and determination of a permitting pathway. Through this work, it was confirmed the WF Amon Wasteway is likely to be regulated as a Water of the United States (WOTUS) by the USACE, is a Water of the State (WOTS) (Ecology), and is a critical area under the City's CAO. RH2 confirmed

federal permit involvement resulting in project regulation under Section 106 of the National Historic Preservation Act (NHPA). Consequently, the City pursued cultural resources investigation and reporting through a contract with Reiss-Landreau Research (RLR). RH2 reviewed RLR's Scope of Work and initial Area of Potential Effect (APE) for site investigations.

Objective: Support and supplement the City's completion of, and prepare and submit, environmental permits for the project. Coordinate with agency staff for permit submittals and issuance, as needed.

Approach:

- 4.1 Provide technical assistance for the City's completion of the State Environmental Policy Act (SEPA) Checklist. *This subtask assumes up to six (6) hours of RH2 staff time.*
- 4.2 Review the Cultural Resources Study (CRS) provided by RLR and comment, as needed. Use an electronic copy of the RLR draft and/or final CRS for permit submittals. *It is assumed USACE will complete Section 106 review and consultation with area Tribes and the Washington State Department of Archaeology and Historic Preservation (DAHP). BPA also will ensure Section 106 compliance is complete for its NEPA reviews. Any revisions to the CRS or additional consultation needs for Section 106 compliance will be completed by the City in coordination with RLR; RH2 will only be involved as this work pertains to the larger federal permit reviews.*
- 4.3 Prepare and submit a Pre-Filing Meeting Request form to Ecology. Attend pre-filing meeting, as needed, and/or coordinate with Ecology to determine subsequent documentation needed for compliance with Section 401 of the Clean Water Act (CWA). *It is assumed that the project will fit within the general Section 401 Water Quality Certification as authorized under Nationwide Permit 14 for Linear Transportation Projects. The Ecology Pre-Filing Meeting Request provides interim project review and feedback ahead of Joint Aquatic Resources Permit Application (JARPA) submittal. If needed, the pre-filing meeting will be conducted virtually with attendance by up to two (2) RH2 staff.*
- 4.4 Prepare JARPA package for compliance with Section 404 of the CWA. *It is assumed the City will draft the JARPA with front-end project information and RH2 will finalize with technical project design, prepare USACE drawings, and submit on behalf of the City.* The following materials will be prepared for the JARPA package:
 - Finalize JARPA application with technical project detail/design.
 - Prepare USACE 8.5-inch by 11-inch specialized drawings.
 - Compile design plans, including City (roadway) and RH2 (mitigation and culvert) (*assumed to be 60-percent level plans*).
 - Compile background reports, including the CAR and CRS.
 - Prepare Endangered Species Act (ESA) documentation (*assumed to be a No Effect Letter*).

Provide draft JARPA package to the City ahead of submittal for review and comment. Finalize and electronically submit the JARPA to USACE, Ecology, and City Planning.

- 4.5 Consult with the WDFW Area Habitat Biologist regarding the project and Hydraulic Project Approval (HPA). Prepare and submit HPA application via WDFW APPS portal. *Preliminary*

WDFW feedback is Amon Wasteway will not be regulated for fish passage, and that the project may not require an HPA. This Scope of Work conservatively assumes additional consultation with WDFW will be needed, and that an HPA application will be prepared and submitted to WDFW to authorize this work. If WDFW provides definitive exemption from the Washington Hydraulic Code, RH2 will not proceed to prepare and submit an HPA for the project.

- 4.6 Prepare materials to address agency review comments and/or requests for information, updated design plans, etc. *The effort involved in this subtask is difficult to define at this time; therefore, RH2 assumes up to eight (8) hours of RH2 staff time.*

Assumptions:

- *The City will be the applicant for all permit applications with RH2 acting as authorized agent, per the assumptions that follow.*
- *The City acknowledges timing for agency reviews and permit issuance is outside of RH2's control; RH2 makes no warranty, explicit or implied, for agency response or permit approval.*
- *The City will submit local SEPA and Critical Areas packages to City Planning.*
- *The City will complete KID crossing approval, as needed.*
- *The City will compile and complete applications for BPA approvals.*
- *The City will complete Construction Stormwater General Permit (CGSP) permitting through Ecology.*
- *RH2 will submit Ecology, WDFW, and USACE packages on behalf of the City.*
- *RLR's CRS will be submitted electronically as part of local, state, and federal permit packages.*
- *City building, site development, or other similar permit reviews will not be needed because the project is being led as a Capital Improvement Project by the Public Works Department.*
- *No listed species or critical habitats are present in proximity to the Amon Wasteway and the project will have no effect on ESA-listed species or habitats.*

Provided by City:

- Payment of permitting fees.
- SEPA Checklist preparation, finalization, submittal, determination, and publication processes.
- Cultural resources contracting and subconsultant coordination, and if needed, edits to the CRS to reflect USACE and BPA reviews, and/or Tribal and DAHP consultation under Section 106.
- Amon Wasteway crossing approval package preparation and submittal to KID.
- Review and comment on Ecology Pre-Filing Meeting Request and JARPA package prior to submittals.

RH2 Deliverables:

- Input and narrative for SEPA Checklist finalization.
- Review and comment on RLR CRS.
- Pre-Filing Meeting Request Form in electronic (PDF) format.
- Attendance of up to two (2) staff at virtual Pre-Filing Meeting with Ecology.
- JARPA package in electronic format (PDF) and up to two (2) hard copies.
- Records of WDFW correspondence in electronic format (PDF).
- HPA application completed and submitted through WDFW APPS portal.
- Electronic (PDF) records of permit packages/issued permits for City coordination with and submittal to BPA.

Task 5 – Preliminary and Final Culvert Design

Work Completed: Under the November 2020 agreement, RH2 consulted with WDFW regarding design standards for the proposed culvert crossing of WF Amon Wasteway; coordinated with culvert manufacturers regarding viable styles, materials, and costs; performed preliminary culvert design and evaluated constraints; evaluated wildlife passage needs for the proposed culvert; and prepared a preliminary Culvert Design Technical Memorandum (TM).

Objective: Prepare preliminary, final, and bid-ready culvert design plans for the WF Amon Wasteway crossing, including technical specifications and cost estimate. Revise and finalize the preliminary Culvert Design TM to address results of geotechnical investigations, design progression, and City review comments.

Approach:

- 5.1 Finalize the preliminary Culvert Design TM. Perform internal QA/QC review and revise for City review. Provide the preliminary Culvert Design TM to the City and discuss to facilitate selection of a preferred culvert design alternative. Refine and prepare final Culvert Design TM with City comments and advanced design information.
- 5.2 Prepare preliminary culvert design plans, anticipated to reflect 30-percent design level, which incorporates the results of geotechnical investigations, City feedback on the Culvert Design TM, additional coordination with culvert manufacturers regarding the parking lot and gravel access addition, etc.
- 5.3 Prepare 60-percent culvert design PS&E, including plan, profile, section, and details sheets (up to three (3) sheets). Perform internal QA/QC review of the 60-percent culvert PS&E package. Provide 60-percent culvert PS&E to the City for review and incorporation into the plan set.
- 5.4 Prepare 90-percent culvert PS&E by refining the package to address City and agency review comments, and design progression. Perform internal QA/QC review of the 90-percent culvert

PS&E package. Provide the 90-percent culvert PS&E to the City for review. Revise culvert PS&E to address City review comments.

- 5.5 Prepare bid-ready culvert PS&E. Provide electronic bid-ready culvert PS&E to the City for bidding. *No hard copies have been included for RH2 production for bidding; it is assumed that City will handle all bidding prints, as needed.*

Assumptions:

- *The Culvert Design TM will incorporate agency feedback on culvert design, existing and proposed site conditions, geotechnical investigations, culvert styles to facilitate wildlife passage and transportation design loads, manufacturer feedback and preliminary costs, and provide recommendation for culvert style/material selection.*
- *The City will complete project bidding and construction administration. RH2 effort for these elements will be handled via amendment to this Scope of Work, if needed.*

Provided by City:

- Review and comment on preliminary Culvert Design TM and provide feedback toward selection of a preferred culvert design alternative.
- Review and comment on the preliminary culvert design plans, and 60- and 90-percent culvert PS&E packages.

RH2 Deliverables:

- Electronic copies (PDF) of preliminary and final Culvert Design TM.
- Electronic copies (AutoCAD, PDF, MS Excel) of preliminary, 60- and 90-percent, and bid-ready culvert PS&E.

Task 6 – Geotechnical Investigation and Analysis

Work Completed: Geotechnical work was not included in the November 2020 agreement; therefore, all work detailed below is new RH2 effort.

Objective: Conduct a limited geotechnical investigation of the proposed parking lot, culvert, and BPA access culvert removal/wetland mitigation area. Collect representative soil samples for laboratory analysis to support stormwater infiltration. Perform corrosion analysis of representative soil samples collected at the culvert site. Prepare technical memorandum summarizing geotechnical investigation, analysis, and recommendations. Coordinate with the City to complete design with respect to geotechnical recommendations.

Approach:

- 6.1 Review existing site data and maps to inform site investigations. Arrange geotechnical site investigations with the City. *It is assumed up to four (4) test pits could be needed, depending on soil conditions encountered. RH2 will provide a map showing the proposed test pit locations and determine approach through City coordination ahead of field work.*

- 6.2 Perform geotechnical site investigations. *It is assumed the City will provide an excavator and operator to perform subsurface geotechnical investigations.* Collect soil samples to perform in-house corrosion analysis to inform culvert design recommendations. Collect representative soil samples and submit samples to a subcontracted soil laboratory for geotechnical and infiltration analysis. *Infiltration analysis for stormwater system components for the project will only require particle-size analysis. If actual site conditions and/or design require more extensive pilot infiltration testing, an amendment to this Scope of Work would be needed.*
- 6.3 Perform corrosion analysis and prepare summary for inclusion in the technical memorandum prepared in subtask 6.4.
- 6.4 Prepare preliminary Geotechnical and Engineering Geology Technical Memorandum to document existing geotechnical conditions of the project site and construction recommendations. Perform internal QA/QC of preliminary technical memorandum and refine for City review. Provide draft to City for review and comment. Finalize technical memorandum based on City review comments.

Assumptions:

- *The City will notify RLR of scheduled geotechnical investigations and, if needed, arrange for RLR to be onsite during investigations by RH2 for the purposes of cultural resources reporting.*

Provided by City:

- Excavator and operator for geotechnical test pits for up to four (4) hours.
- Notify underground utilities one (1) week before excavation activities.
- Review and comment on preliminary technical memorandum.

RH2 Deliverables:

- Electronic copies (PDF) of preliminary and final Geotechnical and Engineering Geology Technical Memorandum.

Task 7 – Project Management

Work Completed: Project management effort was not included in the November 2020 agreement; therefore, all work detailed below is new RH2 effort.

Objective: Manage the RH2 project team, files, and records. Monitor the scope of work, schedule, and budget. Prepare and provide monthly invoices with progress reports documenting work completed. Communicate project progress with the City.

Approach:

- 7.1 Review and monitor project progress, schedule, scope, and budget. Manage the RH2 project team and resources. Provide monthly invoices with progress reports documenting work performed and budget status. Communicate with the City regarding project progress, invoicing, and schedule. Maintain project files and records in electronic format.

Assumptions:

- *Project submittals, contract documents, invoices, and materials will be transmitted between the project team and the City via email.*

RH2 Deliverables:

- Schedule, scope, and budget administration and management.
- Project team and resource management.
- Monthly invoices with progress reporting (electronic copies via email).
- Communication with the City.

Project Schedule

It is anticipated the City and RH2 will further define the project schedule following execution of this contract; however, the following schedule is anticipated at present.

Task 1: Critical Areas Site Investigation and Rating – July 2021

Task 2: Conceptual and Preliminary Mitigation Design and CAR – July through September 2021

Task 3: Final Mitigation Design and CAR – September through December 2021

Task 4: Permitting – July through December 2021

Task 5: Preliminary and Final Culvert Design – July through December 2021

Task 6: Geotechnical Investigation and Analysis – July through August 2021

Task 7: Project Management – Ongoing throughout project duration.

EXHIBIT B

Fee Estimate

City of Richland

Center Parkway Extension Environmental Design and Permitting

Jun-21

Description Classification		Total Hours	Total Labor	Total Subconsultant	Total Expense	Total Cost
Task 1	Critical Areas Site Investigation and Rating	28	\$ 4,888	\$ -	\$ 381	\$ 5,269
Task 2	Conceptual and Preliminary Mitigation Design and CAR	130	\$ 21,957	\$ -	\$ 1,508	\$ 23,465
Task 3	Final Mitigation Design and CAR	128	\$ 21,890	\$ -	\$ 1,690	\$ 23,580
Task 4	Permitting	90	\$ 15,180	\$ -	\$ 1,056	\$ 16,236
Task 5	Preliminary and Final Culvert Design	153	\$ 26,247	\$ -	\$ 2,236	\$ 28,483
Task 6	Geotechnical Investigation and Analysis	49	\$ 10,262	\$ 575	\$ 955	\$ 11,792
Task 7	Project Management	12	\$ 1,920	\$ -	\$ 59	\$ 1,979
PROJECT TOTAL		590	\$ 102,344	\$ 575	\$ 7,886	\$ 110,805

EXHIBIT C
RH2 ENGINEERING, INC.
2021 SCHEDULE OF RATES AND CHARGES

RATE LIST	RATE	UNIT
Professional I	\$144	\$/hr
Professional II	\$157	\$/hr
Professional III	\$169	\$/hr
Professional IV	\$187	\$/hr
Professional V	\$198	\$/hr
Professional VI	\$214	\$/hr
Professional VII	\$226	\$/hr
Professional VIII	\$235	\$/hr
Professional IX	\$235	\$/hr
Control Specialist I	\$130	\$/hr
Control Specialist II	\$141	\$/hr
Control Specialist III	\$154	\$/hr
Control Specialist IV	\$169	\$/hr
Control Specialist V	\$179	\$/hr
Control Specialist VI	\$191	\$/hr
Control Specialist VII	\$204	\$/hr
Control Specialist VIII	\$214	\$/hr
Technician I	\$108	\$/hr
Technician II	\$119	\$/hr
Technician III	\$136	\$/hr
Technician IV	\$145	\$/hr
Technician V	\$160	\$/hr
Technician VI	\$175	\$/hr
Technician VII	\$189	\$/hr
Technician VIII	\$198	\$/hr
Administrative I	\$72	\$/hr
Administrative II	\$84	\$/hr
Administrative III	\$99	\$/hr
Administrative IV	\$118	\$/hr
Administrative V	\$139	\$/hr
CAD/GIS System	\$27.50	\$/hr
CAD Plots - Half Size	\$2.50	price per plot
CAD Plots - Full Size	\$10.00	price per plot
CAD Plots - Large	\$25.00	price per plot
Copies (bw) 8.5" X 11"	\$0.09	price per copy
Copies (bw) 11" X 17"	\$0.20	price per copy
Copies (color) 8.5" X 11"	\$0.90	price per copy
Copies (color) 11" X 17"	\$2.00	price per copy
Technology Charge	2.50%	% of Direct Labor
		price per mile
Mileage	\$0.560	(or Current IRS Rate)
Subconsultants	15%	Cost +
Outside Services	at cost	

Rates listed are adjusted annually.



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Resolutions - Adoption

Core Focus Area 3 - Increase Economic Vitality

Subject:

Resolution No. 76-21, Approving the Final Plat of Westcliffe Heights - Phase 3

Department:
Development Services

Ordinance/Resolution Number:
76-21

Document Type:
Resolution

Recommended Motion:

Adopt Resolution No. 76-21, approving the final plat of Westcliffe Heights - Phase 3.

Summary:

Bauder Land & Development Inc. has requested final plat approval for Westcliffe Heights - Phase 3. The plat proposes to divide approximately 68 acres into 24 residential lots and three (3) tracts. The developer has entered into a Security and Improvement Agreement securing the outstanding incomplete public infrastructure improvements.

Staff recommends approval of Resolution No. 76-21.

Fiscal Impact:

Final plat approval will foster the creation of 24 new lots available for residential construction. Development of the proposed lots will increase the City's tax-base by way of total assessed value, and will also increase demand for city services.

Attachments:

1. Resolution No. 76-21
2. Vicinity Map

RESOLUTION NO. 76-21

A RESOLUTION of the City of Richland approving the final plat of Westcliffe Heights – Phase 3 subject to the conditions of approval of Technical Advisory Committee Report No. S2017-101, Richland Hearing Examiner's Report No. S2017-101, and the findings and conclusions of the Richland City Council as adopted by Resolution No. 115-17.

WHEREAS, on May 4, 2017, the Richland Hearing Examiner held an open-record public hearing to consider the preliminary plat application of Westcliffe Heights as submitted by Mark Bauder; and

WHEREAS, the Richland Hearing Examiner recommended the Richland City Council conditionally approve the preliminary plat of Westcliffe Heights; and

WHEREAS, on July 18, 2017, Richland City Council held a closed-record hearing to consider the proposed Westcliffe Heights preliminary plat application and the recommendation of the Richland Hearing Examiner. Council took action to approve the preliminary plat; and

WHEREAS, the public improvements required for the plat of Westcliffe Heights – Phase 3, consisting of 24 lots and four (4) tracts on 68 acres, are being constructed in accordance with the conditions of approval contained in Technical Advisory Committee (TAC) Report No. S2017-101 dated May 4, 2017, and the July 6, 2017 Richland Hearing Examiner's Report No. S2017-101; and

WHEREAS, RCW 58.17.130 and RMC 24.24.020 expressly allow developers to post a performance bond or other security in the amount and form satisfactory to the City in lieu of construction of the required improvements prior to final plat approval.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the final plat of Westcliffe Heights – Phase 3, a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference, is hereby approved subject to the following:

1. The conditions of approval contained in Technical Advisory Committee Report No. S2017-101, attached hereto and incorporated herein as **Exhibit B**; and
2. The Richland Hearing Examiner's July 6, 2017 Report No. S2017-101, attached hereto and incorporated herein as **Exhibit C**; and
3. The fully executed Security and Improvement Agreement between City and developer, attached hereto and incorporated herein as **Exhibit D**, including the posting of security as required therein; and

4. The findings and conclusions of the Richland City Council as adopted by Resolution No. 115-17.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 6th day of July, 2021.

Ryan Lukson, Mayor

Attest:

Approved as to form:

Jennifer Rogers, City Clerk

Heather Kintzley, City Attorney

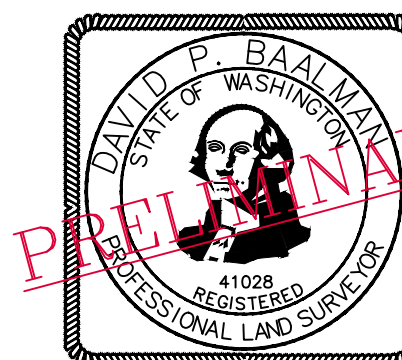
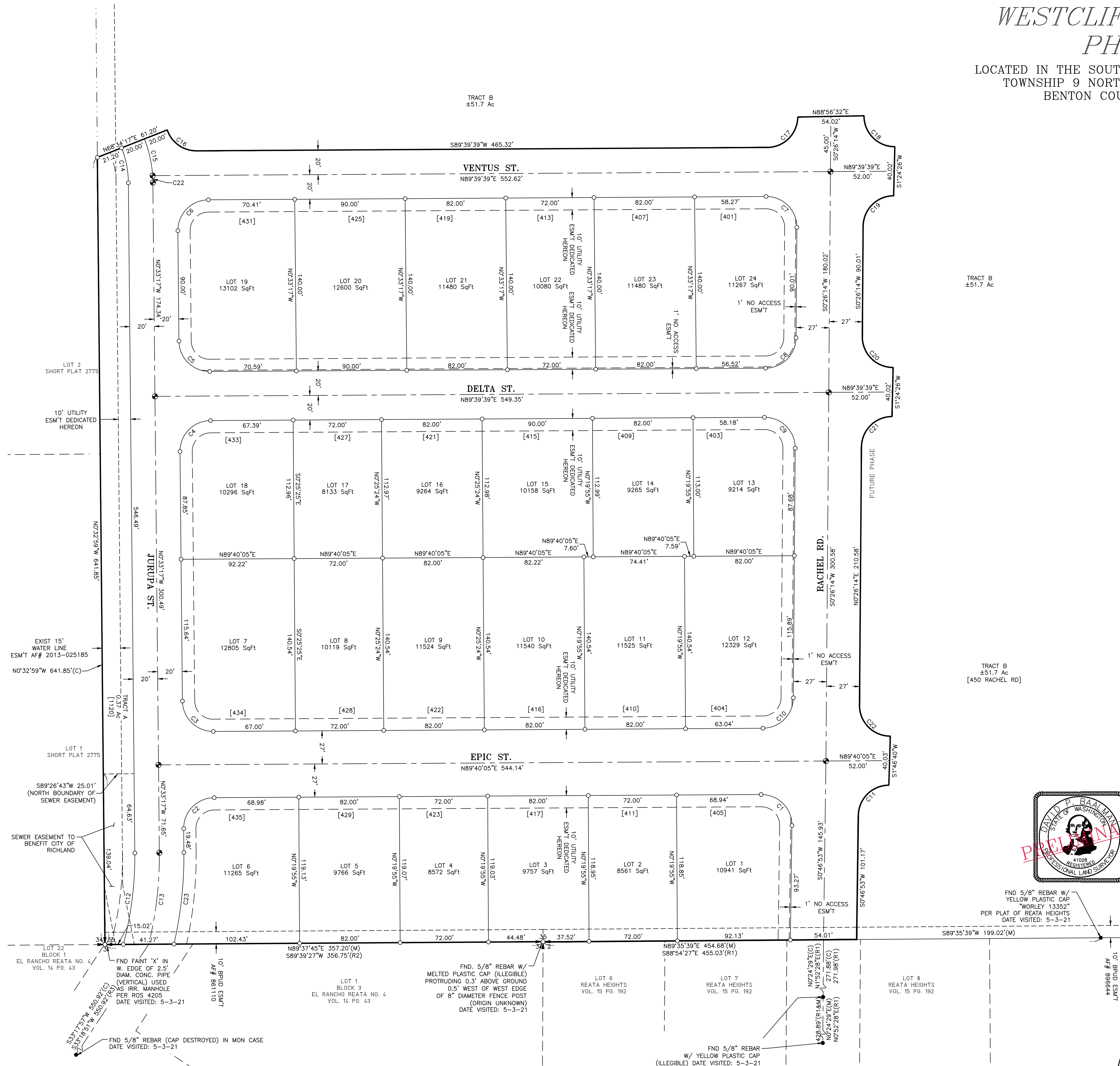
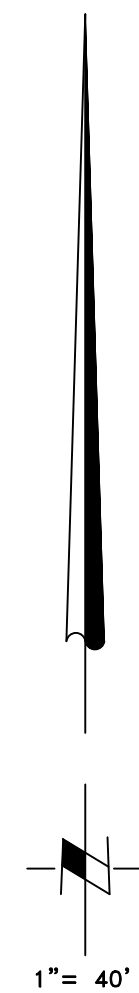
PLAT OF
WESTCLIFFE HEIGHTS
PHASE 3

LOCATED IN THE SOUTHWEST 1/4 OF SECTION 35,
TOWNSHIP 9 NORTH, RANGE 28 EAST, W.M.
BENTON COUNTY, WASHINGTON

TRACT USE TABLE

TRACT A FUTURE DEVELOPMENT
TRACT B FUTURE DEVELOPMENT
TRACT C FUTURE DEVELOPMENT

Curve Table					
CURVE	LENGTH	RADIUS	DELTA	CH. BRNG.	CHORD
C1	39.76	25.00	91°06'48"	N44°46'31"W	35.70
C2	39.37	25.00	90°13'22"	S44°33'24"W	35.42
C3	39.17	25.00	89°46'38"	S45°26'36"E	35.29
C4	39.36	25.00	90°12'56"	S44°33'11"W	35.42
C5	39.18	25.00	89°47'04"	S45°26'49"E	35.29
C6	39.36	25.00	90°12'56"	S44°33'11"W	35.42
C7	39.61	25.00	90°46'35"	N44°57'03"W	35.59
C8	38.93	25.00	89°13'25"	N45°02'57"E	35.11
C9	39.61	25.00	90°46'35"	N44°57'03"W	35.59
C10	38.93	25.00	89°13'51"	N45°03'10"E	35.12
C11	38.78	25.00	88°53'12"	S45°13'29"W	35.01
C12	75.37	279.77	15°26'04"	N7°09'45"E	75.14
C13	75.29	299.77	14°23'26"	N6°38'26"E	75.09
C14	29.15	80.00	20°52'26"	N10°59'30"W	28.98
C15	30.77	100.00	17°37'50"	N12°36'48"W	30.65
C16	30.28	25.00	69°23'35"	S55°38'33"E	28.46
C17	38.93	25.00	89°13'25"	N45°02'57"E	35.11
C18	39.61	25.00	90°46'35"	S44°57'03"E	35.59
C19	38.93	25.00	89°13'25"	S45°02'57"W	35.11
C20	39.61	25.00	90°46'35"	S44°57'03"E	35.59
C21	38.93	25.00	89°13'25"	S45°02'57"W	35.11
C22	39.61	25.00	90°46'09"	S44°56'50"E	35.59
C22	5.66	100.00	3°14'37"	N2°10'35"W	5.66
C23	75.28	319.77	13°29'21"	N6°11'24"E	75.11
C24	247.57	2980.00	4°45'36"	S81°17'55"E	247.50
C26	98.40	303.00	18°36'26"	N63°41'55"E	97.97
C27	17.87	357.00	2°52'06"	N55°49'37"E	17.87
C37	85.60	980.00	5°00'16"	S86°10'50"E	85.57



DATE _____

FND 5/8" REBAR W/
YELLOW PLASTIC CAP
"WORLEY 13352"
PER PLAT OF REATA HEIGHTS
DATE VISITED: 5-3-21

RSI ROGERS
SURVEYING INC., P.S.
1455 COLUMBIA PARK TRAIL
RICHLAND, WA. 99352
PHONE (509) 783-4141
FAX: (509) 783-8994
www.rogerssurveying.com

39020-PLAT.DWG

PLAT OF
WESTCLIFFE HEIGHTS
PHASE 3
LOCATED IN THE SOUTHWEST 1/4 OF SECTION 35,
TOWNSHIP 9 NORTH, RANGE 28 EAST, W.M.
BENTON COUNTY, WASHINGTON

CITY OF RICHLAND NOTES:

1. ADDRESSES SHOWN IN [BRACKETS] ARE SUBJECT TO CHANGE BY THE CITY OF RICHLAND, ZIP CODE: 99352.
2. THE PLAT OF WESTCLIFFE HEIGHTS PHASE 3 LIES WITHIN THE BOUNDARY OF THE SOUTH RICHLAND COLLECTOR STREET FINANCING PLAT (RMC 12.03). AS SUCH, EACH DWELLING UNIT WITHIN THE PLAT SHALL THEREFORE BE SUBJECT TO THE FEES ADMINISTERED BY THE FINANCE PLAN FOR ANY PHASE SUBMITTED FOR APPROVAL.
3. ALL LANDSCAPED AREAS WITHIN THE PLAT THAT ARE IN THE PUBLIC RIGHT OF WAY SHALL BE THE RESPONSIBILITY OF THE HOMEOWNERS TO MAINTAIN.
4. THE NORTH SIDE OF DELTA STREET AND VENTUS STREET AND THE WEST SIDE OF JURUPA STREET ARE DESIGNATED "NO PARKING"
5. IN ACCORDANCE WITH THE GEOTECHNICAL ENGINEERING DECLARATION OF MASS GRADING FOR WESTCLIFFE HEIGHTS DEVELOPMENTS, PHASE 3 AND PHASE 4-6 PREPARED BY APPLUS RTD, DUE TO THE SHALLOW BEDROCK AT SOME LOCATIONS OF THE SITE, APPLUS RTD RECOMMENDS THE USE OF SHALLOW INFILTRATION TRENCHES OR SURFACE SWALES FOR DISPOSAL AND/OR MANAGEMENT OF STORMWATER AT EACH HOME SITE. IF REQUIRED, SEE AFORMENTIONED LETTERS AND THE ORIGINAL GEOTECHNICAL ENGINEERING REPORT FOR WESTCLIFFE HEIGHTS PHASE 3 BY WHITE SHIELD, INC. DATED 1/7/2020.

APPROVALS

THIS PLAT IS HEREBY APPROVED BY AND FOR THE CITY OF RICHLAND, CO. OF BENTON, STATE OF WASHINGTON.

CITY MANAGER	DATE
CITY CLERK	DATE
CITY ENGINEER	DATE

IRRIGATION APPROVAL

I HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREON IS LOCATED WITHIN THE BOUNDARIES OF THE BADGER MOUNTAIN IRRIGATION DISTRICT, AND THAT THE IRRIGATION EASEMENTS SHOWN ON THIS PLAT ARE ADEQUATE TO SERVE ALL LOTS SHOWN HEREON. I FURTHER CERTIFY THAT THOSE LOTS WHICH ARE ENTITLED TO IRRIGATION WATER UNDER OPERATING RULES AND REGULATIONS OF THE DISTRICT HAVE SATISFIED THE REQUIREMENTS OF RCW 56.17.310 AND THAT ALL ASSESSMENTS HAVE BEEN PAID THROUGH THE YEAR 20____.

BADGER MOUNTAIN IRRIGATION DISTRICT DATE

TREASURER'S CERTIFICATE

I HEREBY CERTIFY THAT THE TAXES ON THE LAND DESCRIBED HEREON HAVE BEEN PAID TO AND INCLUDING THE YEAR 20____. PARCEL NUMBER 1-3498-107-0010-000

BENTON COUNTY TREASURER	DATE
BENTON COUNTY ASSESSOR	DATE

OWNERS CERTIFICATE

KNOW ALL PERSONS BY THESE PRESENTS THAT WE ARE THE OWNERS OF THE LAND SHOWN ON THE PLAT OF WESTCLIFFE HEIGHTS PHASE 3, HEREBY DECLARE SAID PLAT AND DEDICATE TO THE PUBLIC, FOR THE USE OF THE PUBLIC FOREVER, ALL EASEMENTS AND RIGHT OF WAYS AS SHOWN HEREON.

JESSICA HOLLANDSWORTH
BAUDER LAND & DEVELOPMENT INC.

ACKNOWLEDGMENT

STATE OF WASHINGTON } S.S.
COUNTY OF

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT JESSICA HOLLANDSWORTH IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT SHE SIGNED THIS INSTRUMENT, ON OATH STATED THAT SHE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE _____ OF BAUDER LAND & DEVELOPMENT INC TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED: _____

SIGNATURE: _____

TITLE: NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON RESIDING AT: _____

MY APPOINTMENT EXPIRES: _____

LEGAL DESCRIPTION

PARCEL A

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 9 NORTH, RANGE 28 EAST, W.M. BENTON COUNTY, WASHINGTON LYING SOUTH OF THE FOLLOWING DESCRIBED LINE;

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 35; THENCE NORTH 00°33'17" WEST, ALONG THE WEST LINE THEREOF A DISTANCE OF 1199.83 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 65°59'57" EAST A DISTANCE OF 44.15 FEET; THENCE NORTH 33°52'18" EAST A DISTANCE OF 61.10 FEET; THENCE SOUTH 84°02'03" EAST A DISTANCE OF 1459.12 FEET; THENCE NORTH 78°04'40" EAST A DISTANCE OF 229.58 FEET; THENCE NORTH 67°55'14" EAST A DISTANCE OF 204.39 FEET; THENCE SOUTH 25°17'12" EAST A DISTANCE OF 408.00 FEET; THENCE SOUTH 38°15'38" EAST A DISTANCE OF 257.19 FEET; THENCE SOUTH 66°38'48" EAST A DISTANCE OF 241.29 FEET; THENCE NORTH 87°38'58" EAST A DISTANCE OF 128.01 FEET; THENCE SOUTH 04°03'16" EAST A DISTANCE OF 107.00 FEET; THENCE SOUTH 58°31'35" EAST A DISTANCE OF 43.26 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 35 LYING NORTH 00°02'49" WEST A DISTANCE OF 398.70 FEET FROM THE SOUTH QUARTER CORNER THEREOF, SAID POINT BEING THE TERMINUS OF DESCRIBED LINE,

EXCEPT THE FOLLOWING DESCRIBED PORTION THEREOF;

REAL PROPERTY LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 9 NORTH, RANGE 28 EAST, W.M. BENTON COUNTY, WASHINGTON DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 35; THENCE NORTH 00°02'49" WEST, 253.02 FEET ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER TO THE TRUE POINT OF BEGINNING; THENCE NORTH 81°18'15" WEST, 189.43 FEET; THENCE NORTH 35°03'49" WEST, 651.63 FEET; THENCE NORTH 25°17'12" WEST, 409.83 FEET; THENCE NORTH 67°55'14" EAST, 9.84 FEET; THENCE SOUTH 25°17'12" EAST, 408.00 FEET; THENCE SOUTH 38°15'38" EAST 257.19 FEET; THENCE SOUTH 66°38'48" EAST, 241.29 FEET; THENCE NORTH 87°38'58" EAST 128.01 FEET; THENCE SOUTH 04°03'16" EAST, 107.00 FEET; THENCE SOUTH 58°31'35" EAST, 43.26 FEET TO A POINT ON THE EAST LINE OF SAID SOUTHWEST QUARTER, THENCE SOUTH 00°02'49" EAST, 145.68 FEET ALONG SAID EAST LINE TO THE TRUE POINT OF BEGINNING;

TOGETHER WITH REAL PROPERTY LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 9 NORTH, RANGE 28 EAST, W.M. BENTON COUNTY, WASHINGTON DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 35 AND BEING THE TRUE POINT OF BEGINNING; THENCE NORTH 89°36'32" EAST, 251.93 FEET ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER; THENCE NORTH 40°19'46" WEST, 320.69 FEET; THENCE NORTH 81°18'15" WEST, 45.10 FEET TO A POINT ON THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 00°02'49" EAST, 253.02 FEET ALONG SAID WEST LINE TO THE TRUE POINT OF BEGINNING;

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCELS;

REAL PROPERTY LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 9 NORTH, RANGE 28 EAST, W.M. BENTON COUNTY, WASHINGTON BEING A PORTION OF PARCEL "C" AS SHOWN ON RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS, PAGE 4205, RECORDS OF BENTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 4, SHORT PLAT #3321 AS RECORDED IN VOLUME 1 OF SHORT PLATS, PAGE 3321, RECORDS OF BENTON COUNTY; THENCE NORTH 25°17'12" WEST, 151.19 FEET ALONG THE LINE COMMON TO SAID LOT 4 AND SAID PARCEL "C" AND TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID COMMON LINE NORTH 52°39'38" WEST, 94.48 FEET; THENCE NORTH 45°13'49" WEST, 48.33 FEET TO A POINT COMMON TO PARCELS "C" AND "D" OF SAID RECORD SURVEY 1-4205; THENCE NORTH 67°55'14" EAST 55.41 FEET ALONG SAID COMMON LINE TO A POINT ON THE WEST LINE OF SAID LOT 4; THENCE SOUTH 25°17'12" EAST, 117.35 FEET ALONG THE COMMON LINE OF SAID LOT 4 AND SAID PARCEL "C" TO THE TRUE POINT OF BEGINNING;

AND ALSO EXCEPT REAL PROPERTY LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 9 NORTH, RANGE 28 EAST, W.M. BENTON COUNTY, WASHINGTON BEING A PORTION OF PARCEL "C" AS SHOWN ON RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS, PAGE 4205, RECORDS OF BENTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 4, SHORT PLAT #3341 AS RECORDED IN VOLUME 1 OF SHORT PLATS, PAGE 3341, RECORDS OF BENTON COUNTY; THENCE NORTH 35°03'49" WEST, 202.88 FEET ALONG THE LINE COMMON TO SAID LOT 4 AND SAID PARCEL "C" THENCE LEAVING SAID COMMON LINE SOUTH 14°39'43" EAST, 99.48 FEET; THENCE SOUTH 19°07'53" EAST, 79.85 FEET; THENCE SOUTH 31°49'48" EAST, 28.98 FEET; THENCE NORTH 58°47'38" EAST, 58.36 FEET TO THE POINT OF BEGINNING.

AND ALSO EXCEPT REAL PROPERTY LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 9 NORTH, RANGE 28 EAST, W.M. BENTON COUNTY, WASHINGTON BEING A PORTION OF PARCEL "C" AS SHOWN ON RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS, PAGE 4205, RECORDS OF BENTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE MOST WESTERLY CORNER OF LOT 4, SHORT PLAT #3344 AS RECORDED IN VOLUME 1 OF SHORT PLATS, PAGE 3344, RECORDS OF BENTON COUNTY; THENCE SOUTH 35°03'49" EAST, 165.84 FEET ALONG THE LINE COMMON TO SAID LOT 4 AND SAID PARCEL "C"; THENCE LEAVING SAID COMMON LINE NORTH 71°28'34" WEST, 64.92 FEET; THENCE NORTH 56°09'06" WEST, 63.84 FEET; THENCE NORTH 31°49'48" WEST, 58.05 FEET; THENCE NORTH 58°47'38" EAST, 58.36 FEET TO THE POINT OF BEGINNING;

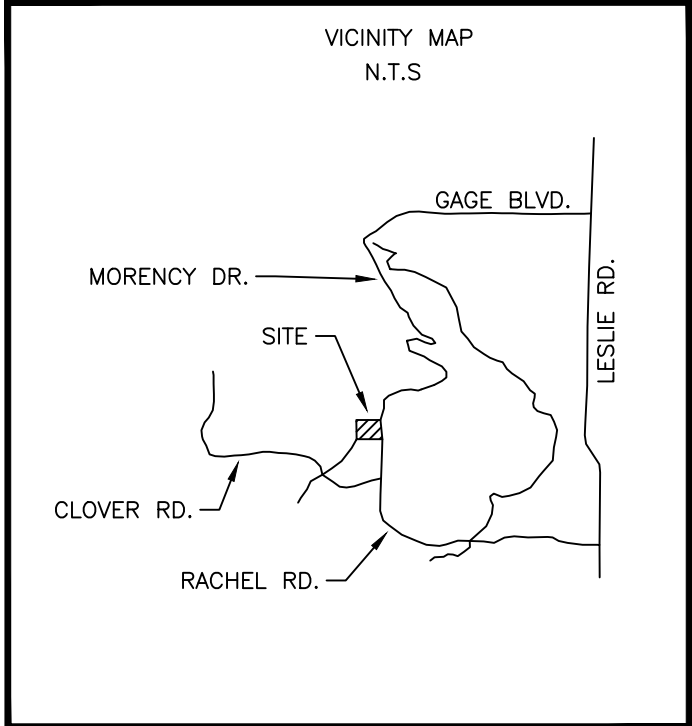
AND ALSO EXCEPT REAL PROPERTY LOCATED IN THE SOUTH HALF OF SECTION 35, TOWNSHIP 9 NORTH, RANGE 28 EAST, W.M. BENTON COUNTY, WASHINGTON BEING A PORTION OF PARCEL "C" AS SHOWN ON RECORDS OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS, PAGE 4205, RECORDS OF BENTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 4, SHORT PLAT #3344 AS RECORDED IN VOLUME 1 OF SHORT PLATS, PAGE 3344, RECORDS OF BENTON COUNTY; THENCE NORTH 40°19'46" WEST, 260.22 FEET ALONG THE LINE COMMON TO SAID LOT 4 AND SAID PARCEL "C" AND TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID COMMON LINE NORTH 81°23'35" WEST, 162.94 FEET; THENCE NORTH 73°12'44" WEST, 86.11 FEET TO A POINT COMMON TO SAID PARCEL "C" AND LOT 4; THENCE SOUTH 81°18'15" EAST, 234.53 FEET ALONG SAID COMMON LINE TO AN ANGLE POINT IN SAID COMMON LINE; THENCE SOUTH 40°19'46" EAST, 18.10 FEET ALONG SAID COMMON LINE TO THE TRUE POINT OF BEGINNING.

PARCEL B

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 9 NORTH, RANGE 28 EAST, W.M. BENTON COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 35; THENCE NORTH 00°33'17" WEST, ALONG THE WEST LINE THEREOF A DISTANCE OF 1199.83 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 00°33'17" WEST A DISTANCE OF 264.67 FEET; THENCE LEAVING SAID WEST LINE SOUTH 78°55'15" EAST A DISTANCE OF 281.59 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 04°36' A RADIUS OF 2980.00 FEET AND AN ARC DISTANCE OF 247.58 FEET TO A POINT OF TANGENT; THENCE SOUTH 83°40'51" EAST A DISTANCE OF 634.93 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 05°00'15" A RADIUS OF 980.00 FEET AND AN ARC DISTANCE OF 85.59 FEET TO A POINT OF TANGENT; THENCE SOUTH 88°41'06" EAST A DISTANCE OF 63.05 FEET; THENCE SOUTH 75°36'02" EAST A DISTANCE OF 143.86 FEET; THENCE NORTH 80°56'30" EAST A DISTANCE OF 261.85 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 18°36'25" A RADIUS OF 303.00 FEET AND AN ARC DISTANCE OF 98.40 FEET TO A POINT ON CURVE AND BEING THE NORTHWEST CORNER OF LOT 4 OF SHORT PLATS #3321, AS RECORDED IN VOLUME 1 OF SHORT PLATS, PAGE 3321, RECORDS OF BENTON COUNTY, WASHINGTON; THENCE SOUTH 35°36'25" EAST (RADIAL) A DISTANCE OF 54.00 FEET TO A POINT ON CURVE, THE RADIUS POINT BEARS NORTH 35°36'25" WEST; THENCE ALONG A CURVE CONCAVE TO THE NORTHWEST HAVING A CENTRAL ANGLE OF 02°52'05" A RADIUS OF 357.00 FEET AN ARC DISTANCE OF 17.87 FEET AND A CHORD BEARING OF SOUTH 55°49' 37" WEST AND A CHORD DISTANCE OF 17.87 FEET TO A POINT ON CURVE; THENCE SOUTH 27°35'28" EAST A DISTANCE OF 74.85 FEET; THENCE SOUTH 45°13'49" EAST A DISTANCE OF 62.22 FEET; THENCE LEAVING THE WESTERLY LINE OF SAID LOT 4 SOUTH 67°55'14" WEST A DISTANCE OF 139.14 FEET; THENCE SOUTH 78°04'40" WEST A DISTANCE OF 229.58 FEET; THENCE NORTH 84°02'03" WEST A DISTANCE OF 1459.12 FEET; THENCE SOUTH 33°52'18" WEST A DISTANCE OF 61.10 FEET; THENCE NORTH 65°59'57" WEST A DISTANCE OF 44.15 FEET TO THE TRUE POINT OF BEGINNING.



DATE _____

Exhibit B

(S2017-101 – Westcliffe Heights)

RICHLAND PLANNING COMMISSION TECHNICAL ADVISORY COMMITTEE REPORT MAY 4, 2017

APPLICANT: MARK BAUDER

REQUEST: PRELIMINARY PLAT APPROVAL TO SUBDIVIDE 140.3 ACRES INTO
203 RESIDENTIAL LOTS, (WESTCLIFFE HEIGHTS)

LOCATION: IMMEDIATELY SOUTH OF THE INTERSECTION OF FERRARA LANE
AND SICILY LANE (WESTCLIFFE)

ENGINEER: PBS ENGINEERING

TECHNICAL ADVISORY COMMITTEE RECOMMENDATIONS

The Technical Advisory Committee conducted a review of the request and recommends that if the preliminary plat is approved, such approval be subject to the following conditions:

Pre-Plat Specific Corrections:

1. Tract "D" should be labeled as a "Storm Drainage Tract" and not as "Future Development", per discussions with the developer and his engineer.
2. The BMID pond needs to be shown on sheet 1.

General Conditions:

3. Portions of the plat are subject to the City's wild land fire protection requirements. To ensure that future lot buyers are properly informed of the specific wild land fire requirements, the following note shall be placed on the final plat: *"The following lots within the plat are subject to the City's Wild Land Fire Protection requirements as delineated in Richland Municipal Code Section 21.01.030 or as they may be subsequently modified. Lots 1-19 shall be subject to these requirements. All structures built on these lots must be developed with non-combustible siding, soffit and skirting on the side adjacent to the wild-land area. Decks or porches 36 inches or less in height shall have skirting if within 30 feet of adjacent wild-land areas when the wild-land area is in excess of five contiguous acres. Skirting shall be sufficiently constructed so as not to allow the accumulation of combustible material under the deck or porch. The area under the deck or porch shall not be used for storage."*
4. Subsequent final plat phases shall be designed and submitted in substantial conformance with the preliminary plat referenced in the May 4, 2017 staff report (Exhibit 1).
5. Dedication of Tract C referenced as Exhibit 1 in the May 4, 2017 staff report, to the City of Richland Parks and Public Facilities Department shall fully satisfy parks impact fee payment requirements for all lots belonging to Westcliffe Heights.
6. All final plans for public improvements shall be submitted prior to pre-con on a 24" x 36" hardcopy format and also electronically in .dwg format compatible with the City's standard CAD software. Addendums are not allowed, all information shall be supplied in the specified 24 x 36 (and electronic) format. When construction of the infrastructure has been substantially completed, the applicant shall provide paper, mylar and electronic record drawings in accordance with the City's

"Record Drawing Requirements". The electronic as-built record drawings shall be submitted in AutoCAD format compatible with the City's standard CAD software. Electronic copies of the construction plans are required prior to the pre-con meeting, along with the multiple sets of paper drawings. The mylar record drawings (including street lights) shall be submitted and approved by the City before the final punchlist inspection will be performed. All final punchlist items shall be completed or financially guaranteed prior to recording of the final plat.

7. Any and all necessary permits that may be required by jurisdictional entities outside of the City of Richland shall be the responsibility of the developer to obtain.
8. A copy of the construction drawings shall be submitted for review to the appropriate jurisdictions by the developer and his engineer. All required comments / conditions from all appropriate reviewing jurisdictions (e.g.: Benton County, any appropriate irrigation districts, other utilities, etc.) shall be incorporated into one comprehensive set of drawings and resubmitted (if necessary) for final permit review and issuance.
9. Any work within the public right-of-way or easements or involving public infrastructure will require the applicant to obtain a right-of-way permit prior to construction. A plan review and inspection fee in the amount equal to 5% of the construction costs of the work within the right-of-way or easement will be collected at the time the permit is issued. A stamped, itemized Engineers estimate (Opinion of probable cost) and a copy of the material submittals shall be submitted along with the final plan submittal.
10. When the construction is substantially complete a paper set of "record drawings" shall be prepared by a licensed surveyor and include all changes and deviations. Please reference the Public Works document "RECORD DRAWING REQUIREMENTS & PROCEDURES" for a complete description of the record drawing process. After approval by the City of the paper copy, a mylar copy of the record drawings shall be submitted along with a CAD copy of them. The electronic as-built record drawings shall be submitted in a AutoCAD format compatible with the City's standard CAD software. All final punchlist items shall be completed or financially guaranteed prior to recording of the final plat.
11. Public utility infrastructure located on private property will require recording of a City standard form easement prior to acceptance of the infrastructure and release of the final plat. The City requires preparation of the easement legal description by the developer two weeks prior to the scheduled date of plat acceptance. Once received, the City will prepare the easement document and provide it to the developer. The developer shall record the easement at the Benton County Assessor and return a recorded original document to the City prior to application for plat acceptance.
12. A pre-construction conference will be required prior to the start of any work within the public right-of-way or easement. Contact the Civil and Environmental Engineering Division at 942-7500 to schedule a pre-construction conference.
13. Site plan drawings which involve the construction of public infrastructure shall be drawn on a standard 24" x 36" drawing format to a scale which shall not be less than 1"= 40'.
14. All plan sheets involving construction of public infrastructure shall have the stamp of a current Washington State licensed professional engineer.
15. All construction plan sheets shall include the note "CALL TWO WORKING DAYS BEFORE YOU DIG 1-800-424-5555 (or "811")." Or: <http://www.call811.com/>
16. An irrigation source and distribution system, entirely separate from the City's domestic water system, shall be provided for this development. *Construction plans will not be accepted for review until adequate and viable proof of an irrigation source is made available by the developer.* The

designing Engineer shall submit plans for the proposed irrigation system to the Irrigation District with jurisdiction over the property at the same time that they are submitted to the City for construction review. Plans shall be reviewed and accepted by said irrigation district prior to issuance of a Right-of-Way permit by the City. Easements shall be provided on the final plat for this system where needed.

17. A copy of the preliminary plat shall be supplied to the Post Office and all locations of future mailbox clusters approved prior to final platting.

Design Standards:

18. Public improvement design shall follow the following general format:
 - A. Sanitary sewer shall be aligned on the north and west side of street centerlines.
 - B. Storm sewer shall be aligned on the south and east side of street centerlines.
 - C. Any sewer or storm manholes that are installed outside of public Right of Way shall have an acceptable 12-foot wide gravel access road (minimum) provided from a public street for maintenance vehicles.
 - D. 10-foot horizontal spacing shall be maintained between domestic water and sanitary sewer mainlines and service lines.
 - E. Water lines shall be aligned on the south and east side of street centerlines.
 - F. Watermains larger than 8-inches in diameter shall be ductile iron.
 - G. Watermains installed outside of the City Right of Way or in very rocky native material, shall be ductile iron and may need restrained joints.
 - H. All watermains outside areas zoned R1 shall be ductile iron.
 - I. Fire hydrant location shall be reviewed and approved by the City Fire Marshal.
 - J. Sewer mains over 15-feet deep shall be constructed out of SDR26 PVC, C900 PVC or ductile iron. The entire main from manhole to manhole shall be the same material. Private sewer service lines over 15-feet deep shall also be constructed of the same material, then transition to regular sewer piping above 15-feet.
 - K. All utilities shall be extended to the adjacent property (properties) at the time of construction.
 - L. The minimum centerline finish grade shall be no less than 0.30 % and the maximum centerline finish grade shall be no more than 10.0 % for local streets.
 - M. The minimum centerline radius for local streets shall be 100-feet.
 - N. Any filling of low areas that may be required within the public Right of Way shall be compacted to City standards.
 - O. A overall, composite utility plan shall be included in the submitted plan set if the project is phased. This comprehensive utility plan benefits all departments and maintenance groups involved in the review and inspection of the project.
 - P. A detailed grading plan shall be included in the submitted plan set.
 - Q. For public utilities not located within public street rights-of-way the applicant shall provide maintenance access acceptable to the City and the applicant shall provide an exclusive 10-foot wide public utility easement (minimum) to be conveyed to the City of Richland.
 - R. Final design of the public improvements shall be approved at the time of the City's issuance of a Right-of-way Construction Permit for the proposed construction.
 - S. All public improvements shall comply with the State of Washington and City of Richland requirements, standards and codes.
 - T. All cul-de-sacs shall have a minimum radius of 45-feet to the face of curb to allow for adequate turning radius of fire trucks and solid waste collection vehicles.
 - U. Curb returns at minor intersections shall have a minimum radius of 25-feet. Curb returns at major intersections should have minimum radius of 30-feet but should be evaluated on a case by case basis.
 - V. All public streets shall meet design requirements for sight distance (horizontal, vertical and intersectional).

- W. The final engineered construction plans shall identify locations for irrigation system, street lighting, gas service, power lines, telephone lines, cable television lines, street trees and mail boxes. All electrical appurtenances such as transformers, vaults, conduit routes, and street lights (including their circuit) need to be shown in the plan view.
 - X. Construction plans shall provide or reference all standard drawings or special details that will be necessary to construct all public improvements which will be owned, operated, maintained by the City or used by the general public (Commercial Driveway, Curb, Gutter, Sidewalk, Water, Sewer, Storm, Street and Street lighting etc.).
 - Y. The contractor shall be responsible for any and all public infrastructure construction deficiencies for a period of one year from the date of the letter of acceptance by the City of Richland.
19. If the project will be built in phases the applicant shall submit a master plan for the sanitary sewer, domestic water, storm drainage, electrical, street lighting and irrigation system for the entire project prior to submitting plans for the first phase to assure constructability of the entire project. This includes the location and size of any storm retention ponds that may be required to handle runoff.
20. If the City Fire Marshal requires a secondary emergency vehicle access, it shall be included in the construction plan set and be designed to the following standards:
- A. 2-inches compacted gravel, minimum (temp. SEVA only).
 - B. 2% cross-slope, maximum.
 - C. 5% slope, maximum. Any access road steeper than 5% shall be paved or be approved by the Fire Marshal.
 - D. Be 20-feet in width.
 - E. Have radii that are accommodating with those needed for City Fire apparatus.
- Secondary emergency vehicles accesses (SEVA's) shall be 20-feet wide, as noted. Longer secondary accesses can be built to 12-feet wide with the approval of the City of Richland Fire Marshal, however turn-outs are required at a spacing acceptable to the Fire Dept. Temporary SEVA's shall be constructed with 2-inches of compacted gravel, at a minimum. Permanent SEVA's shall be paved with 2-inches of asphalt over 4-inches of gravel, at a minimum.
21. SURVEY MONUMENT DESTRUCTION:
All permanent survey monuments existing on the project site shall be protected. If any monuments are destroyed by the proposed construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.
- A. No survey monument shall be removed or destroyed (*the physical disturbance or covering of a monument such that the survey point is no longer visible or readily accessible*) before a permit is obtained from the Department of Natural Resources (DNR). WAC 332-120-030(2) states "It shall be the responsibility of the governmental agency or others performing construction work or other activity (including road or street resurfacing projects) to adequately search the records and the physical area of the proposed construction work or other activity for the purpose of locating and referencing any known or existing survey monuments." (RCW 58.09.130).
 - B. Any person, corporation, association, department, or subdivision of the state, county or municipality responsible for an activity that may cause a survey monument to be removed or destroyed shall be responsible for ensuring that the original survey point is perpetuated. (WAC 332-120-030(2)).
 - C. Survey monuments are those monuments marking local control points, geodetic control points, and land boundary survey corners. (WAC 332-120-030(3)).

When a monument must be removed during an activity that might disturb or destroy it, a licensed Engineer or Land Surveyor must complete, sign, seal and the file a permit with the DNR.

It shall be the responsibility of the designing Engineer to identify the affected monuments on the project plans and include a construction note directing them to the DNR permit.

Traffic & Streets:

22. The Westcliffe Heights preliminary plat lies within the boundary of the South Richland Collector Street Financing Plan (RMC 12.03). This plat shall therefore be subject to the fees administered by the finance plan for any phase submitted for approval. Since this property is included within the Financing Plan, it is exempt from the SEPA-related traffic study requirement (TIA). The developer of this proposed project shall receive “credits” for construction of Queensgate Drive as allowed under the City’s South Richland Collector Street Financing Plan.
23.
 - A) The off-site portion of Queensgate Drive and “Primary Drive” shall be constructed to the City’s standard rural road section at the same time that the initial phase is constructed.
 - B) The “primary drive” shall be constructed to establish an access route connecting Morency Drive to Queensgate Drive prior to the final platting of the 26th lot belonging to Phases 3 through 7 as indicated on the Preliminary Phase Exhibit sheet of Exhibit 1 as contained in the May 4, 2017 staff report.
 - C) The applicant shall obtain all necessary right-of-way permits from Benton County prior to constructing road connections to Jurupa Street and Rachel Road.
24. The maximum centerline finish grade for the proposed Queensgate Drive shall be no more than 10%.
25. NEW COMMENT: The vision-clearance triangle needs to be shown on all corner lots on both the construction plans and the final plat document, in accordance with RMC Chapter 12.11.020. If the intersection is in a curve, it will have to be evaluated per AASHTO guidelines. This information may need to be designed by the engineer of record and supplied to the surveyor of record for inclusion into the final plat document.
26. All proposed Right of Ways that are narrower than 54-feet shall have parking restricted, as per City standards. Street signs indicating restricted parking shall be installed prior to final platting at the developers expense. The restricted parking areas shall be indicated on the construction plans and the final plat.
27. All private roads shall be constructed to provide for adequate fire truck & solid waste collection truck access & turnaround movements.
28. Any private roads narrower than 34-feet shall have parking restricted on one side, and any roads 28-feet or narrower shall have parking restricted on both sides. Street signs indicating restricted parking shall be installed prior to final platting at the developers expense.
29. Sidewalks shall be installed along all public Right of Way frontages that building lots do not front on during construction of those phases (e.g., storm drainage ponds, parks, etc.).
30. If the project is to be constructed in phases, all dead-end streets longer than 150-feet that will be continued later need to have temporary turn-arounds built at the end of them. The radius of these

turn-arounds shall be 45-feet minimum, and shall be constructed of 2-inches of compacted top course gravel for slopes less than 5%, or of 2-inches of asphalt atop 2-inches of gravel for slopes greater than 5%. If the temporary turn around is not located within the final plat an easement with a 50-foot radius will be required.

Domestic Water:

31. The proposed preliminary plat is located within both the Tapteal 4 and 5 water pressure zones. It shall be the responsibility of the developer to install the appropriate infrastructure to serve domestic water at the correct pressure(s) to the entire plat. This may require parallel water mains in some roads.
32. There are existing water mains within the boundary of this preliminary plat. As development proceeds over these mains it shall be the responsibility of the developer to re-lay them at the correct depth and/or relocate them to be within future Right of Ways.
33. The developer will be required to demonstrate that all phases are capable of delivering adequate fire flows prior to construction plans being accepted for review. This may require looping of the watermain from off-site locations, or oversizing of water mains where needed.
34. Domestic water shall be extended to the adjoining properties adjacent to the plat.
35. The fire hydrant layout shall be approved by the City Fire Marshal.

Sanitary Sewer:

36. There are multiple off-site locations available to extend sanitary sewer to this project. It shall be the responsibility of the developer to extend a sewer main to this property to serve sanitary sewer at the time of plat construction.
37. Sanitary sewer shall be extended to all adjoining uphill properties adjacent to the plat.
38. A 10-foot wide exclusive sanitary sewer easement shall be provided for any sewer main that is outside of the public Right-of-Way. Wider easements are required for mains that are buried deeper than 10-feet. If any manholes are located outside of the public Right-of-Way, maintenance truck access to said structure may be required.

Storm Water:

39. This project may require coverage under the Washington State General NPDES Permit for Construction projects. The Developer shall be responsible for compliance with the permit conditions. The City has adopted revised standards affecting the construction of new stormwater facilities in order to comply with conditions of its NPDES General Stormwater Permit program. This project, and each phase thereof, shall comply with the requirements of the City's stormwater program in place at the time each phase is engineered. The project will require detailed erosion control plans.
40. All storm drainage systems shall be designed following the core elements defined in the latest edition of the Stormwater Management Manual for Eastern Washington. The Hydrologic Analysis and Design shall be completed based on the following criteria: Washington, Region 2, Benton County; SCS Type 1A – 24 Hour storm for storm volume. The applicant's design shall provide runoff protection to downstream property owners.

41. The flow-rate of the public storm drainage system shall be designed using the 2-Year, 3-Hour short duration Eastern Washington storm for pipe and inlet sizing using SCS or Santa Barbra method; no modifying or adding time of concentration; no surcharge allowed. Calculations shall be stamped by a registered professional engineer and shall include a profile of the system showing the hydraulic grade line. The calculations should include a 50-foot wide strip behind each right of way line to represent drainage from private property into the City system. Of that area, 50% shall be considered pervious and 50% impervious. Calculations shall include a profile for the design showing the hydraulic grade line for the system. Passing the storm downhill to an existing system will require a downstream storm system capable of accepting the water without being overwhelmed.
42. All construction projects that don't meet the exemption requirements outlined in Richland Municipal Code, Section 16.06 shall comply with the requirements of the Washington State Department of Ecology issued Eastern Washington NPDES Phase II Municipal Stormwater Permit. All construction activities subject to this title shall be required to comply with the standards and requirements set forth in the Stormwater Management Manual for Eastern Washington (SWMMEW) and prepare a Stormwater Site Plan. In addition a Stormwater Pollution Prevention Plan (SWPPP) or submission of a completed erosivity waiver certification is required at the time of plan submittal.
43. If any existing storm drainage or ground water seepage drains onto the proposed site, said storm drainage shall be considered an existing condition, and it shall be the responsibility of the property developer to design a system to contain or treat and release the off-site storm drainage.
44. If there are any natural drainage ways across the proposed pre-plat, the engineered construction plans shall address it in accordance with Richland Municipal code 24.16.170 ("Easements-watercourses").
45. Prior to or concurrent with the submittal of the first phase the developer shall provide a Geotechnical report including the percolation rate of the soils in the area of any storm retention ponds. If the project constructs a storm retention pond then the engineer will need to demonstrate that the pond will drain itself within 24 hours after the end of a storm event, and not have standing water in it longer than that. Engineering solutions are available for retention ponds that do not perk within 24 hours.
46. As per RMC chapter 24.20.070 and the City of Richland's Comprehensive Stormwater Management Plan, the storm drainage system installed as part of this plat may need to be oversized in order to handle the additional flow from future developments in the vicinity.
47. Stormwater collection pipes shall be extended to the adjoining properties adjacent to the plat.
48. If the storm drain pond slopes are greater than 25% or deeper than 4-feet, then a 6-foot fence will be required around the perimeter of the pond with a minimum 12-foot wide gate for maintenance vehicles. A maintenance road from the public Right of Way to the bottom of the pond is also needed (2-inches of compacted gravel, minimum). The City's maintenance of the pond in the future will consist of trimming weeds to maintain compliance with fire and nuisance codes, and maintaining the pond for functionality.
49. The developer shall be responsible for landscaping the storm pond and for its maintenance through the one-year infrastructure warranty period. At a minimum the landscaping plan should be consistent with the City's intended maintenance standard as described above. If the developer wishes for the pond to be landscaped and visually appealing, then the homeowners association should be considered for maintenance responsibilities. This will require an irrigation

meter and sprinkler system (including a power source), and responsibility for maintaining the landscaping.

50. The developer of record shall maintain the public storm drainage system for one year from the date of final acceptance by The City of Richland (as determined by the issuance of the "Letter of Final Acceptance"). Said developer shall also thoroughly clean the entire system, including structures, pipelines and basins prior to the City warranty inspection, conducted 11 months after the Letter of Final Acceptance.

Electrical Service:

51. Provide a ten (10) foot electrical utility easement following the south line of the access easement shown on Sheet 3 of the preliminary plat leading from the "secondary drive" to the City reservoirs, noted as easement 1.
52. The electrical service for Westcliffe Heights will be accomplished by extending a 750mcm feeder circuit from the Westcliffe development up Queensgate Drive. This feeder will be extended through the Westcliffe Heights development and connect to an existing feeder circuit in Falcon Crest. This will complete a feeder loop improving the system reliability. The residential lots will be served from distribution circuits that are fed from the feeder circuit extended through the development. Infrastructure for a future feeder tie to Rachel Road will also be installed during this development.

Final Platting Requirements:

53. When the construction is substantially complete a paper set of "record drawings" shall be prepared by a licensed surveyor and include all changes and deviations. Please reference the Public Works document "RECORD DRAWING REQUIREMENTS & PROCEDURES" for a complete description of the record drawing process. After approval by the City of the paper copy, a mylar copy of the record drawings shall be submitted along with a CAD copy of them. The electronic as-built record drawings shall be submitted in a AutoCAD format compatible with the City's standard CAD software. All final punchlist items shall be completed or financially guaranteed prior to recording of the final plat.
54. Public utility infrastructure located on private property will require recording of a City standard form easement prior to acceptance of the infrastructure and release of a certificate of occupancy. The City requires preparation of the easement legal description by the developer two weeks prior to the scheduled date of final acceptance. Off-site ("third party") easements for City infrastructure are the responsibility of the developer to obtain. Once received, the City will prepare the easement document and provide it to the developer. The developer shall record the easement at the Benton County Assessor and return a recorded original document to the City prior to application for final occupancy.
55. Any off-site easements or permits necessary for this project shall be obtained and secured by the applicant and supplied to the City at the time of plat construction and prior to final plat acceptance by the City.
56. Ten-foot wide public utility easements will be required on the final plat along both sides of all Right-of-Ways within the proposed plat.
57. NEW COMMENT: The vision-clearance triangle needs to be shown on all corner lots on the final plat document, in accordance with RMC Chapter 12.11.020. If the intersection is in a curve, it will have to be evaluated per AASHTO guidelines. This information may need to be designed by the

engineer of record and supplied to the surveyor of record for inclusion into the final plat document.

- 58. All landscaped areas within the plat that are in the public Right of Way shall be the responsibility of the property owners to maintain.
- 59. The intended use and ownership of all tracts within the plat shall be noted on the final plat.
- 60. Property with an unpaid L.I.D. assessment towards it must be paid in full or segregated per Richland Municipal Code 3.12.095.
- 61. Any restricted parking areas shall be indicated on the final plats.



**BEFORE THE HEARING EXAMINER
FOR THE
CITY OF RICHLAND**

**FINDINGS, CONCLUSIONS AND
RECOMMENDATION OF APPROVAL
“WESTCLIFFE HEIGHTS” PRELIMINARY PLAT**

FILE NUMBER: S2017-101

APPLICANT: MARK BAUDER

APPLICATION: TO SUBDIVIDE 140.3 ACRES INTO 203 SINGLE FAMILY RESIDENTIAL LOTS
AND ELEVEN (11) TRACTS

LOCATION: IN THE SOUTH RICHLAND AREA, ON FOUR PARCELS THAT FORM MUCH OF
THE CREST OF LITTLE BADGER MOUNTAIN, RUNNING FOR ABOUT 1.3 MILES
IN A NORTHWEST TO SOUTHEAST ORIENTATION, GENERALLY EAST OF
BERMUDA ROAD AND WEST OF MEADOW HILLS DRIVE.

PARCEL NUMBERS: BENTON COUNTY ASSESSOR PARCEL NOS. 134981000005000
134981000006006, 135983000001044, AND 135983000001040.

NOTE: PARCEL No. 135983000001039 IS ALSO INCLUDED FOR PURPOSES OF THE SEPA DNS ISSUED
FOR SITE-GRADING ACTIVITIES ASSOCIATED WITH THE PROPOSAL. (SEE LIST ON EX. 1, PRELIMINARY PLAT SITE
PLAN, COVER SHEET, SHEET 1 OF 5; AND EX. 5, SEPA DNS FOR SITE-GRADING).

REVIEW PROCESS: TYPE III, PRELIMINARY PLAT,
HEARING EXAMINER RECOMMENDATION TO CITY COUNCIL

SUMMARY OF RECOMMENDATION: *APPROVE*, SUBJECT TO CONDITIONS

DATE OF RECOMMENDATION: JULY 6, 2017

I. PROJECT DESCRIPTION AND SUMMARY of PROCEEDINGS.

Mark Bauder, as the project applicant and owner of the property at issue in this matter, submitted the underlying application to subdivide the property on or about February 3, 2017. (*Exhibit 2, Preliminary Plat Application*).

The proposed subdivision would divide approximately 140 acres into a development site with 203 single family residential lots known as the Westcliffe Heights Preliminary Plat, which will be served by City utilities, include internal streets, and eleven (11) tracts. (*Staff Report, pages 2 and 8; Exhibit 1, Preliminary Plat Site Plan; Ex. 2, application*).

Sitting atop the hill known locally as “Little Badger Mountain”, the proposed plat site consists of arid sagebrush steppe/grassland and two municipal water tanks on a single hillcrest that is generally oriented northwest to southeast. On the north side, the hill experiences a vertical gain of approximately 510-feet – rising up from Meadow Hills Drive. The south side of the hill experiences a more gradual slope with an approximate vertical gain of 300-feet, using the orchard edge as a marker for the base. Multiple areas within the site are designated as critical areas due to high erosion potential and/or steep slopes.

Lands located east and north of the site are predominantly developed with single-family residential neighborhoods while land in the southern and western vicinities continues to be used for orchard/agricultural purposes. Some neighboring properties to the north and south contain similar orchards and natural sagebrush together with a single-family home site owned by the Wilson family.

Generally, the proposed plat is situated in an area of vacant land on the western fringe of urban South Richland, with neighborhoods to the east, north and south, and with large open expanses of orchard land generally to the west.

The proposed Westcliffe Plat borders the city limits in the southwest corner where proposed Tracts J & K are shown, and along the southerly boundary of the plat. A single-family residential neighborhood named “Reata Heights”, which was platted in 2002, lies south of the plat boundary, in unincorporated Benton County. (*Staff Report, page 7; Ex. 13, site photos; Site Visit*).

SEPA Compliance.

Exhibit 4 is the Environmental Checklist submitted by the applicant for project-related grading work on the steep site, and *Exhibit 5* is the City’s Determination of Non-Significance (DNS) for grading. The SEPA comment period for site-grading expired on December 19, 2016, with no one submitting any comments.

Exhibit 6 is the Environmental checklist submitted by the applicant for the proposed plat itself, and *Exhibit 7* is the *Mitigated Determination of Non-Significance* issued for the plat, issued on

March 7, 2017, which includes seven (7) specific SEPA mitigation measures for the project, which read as follows:

- 1) Prior to the City accepting the first phase final plat, the proponent must have performed and submit to the City the results of a site-wide geologic hazards study and technical report. Said geologic technical report shall include assurance in the form of a letter from the geologic consultant who prepared the required study and report stating that the activity creates minimal risk of danger to life or property on or off the project site.
- 2) The off-site portion of Queensgate Drive and “Primary Drive” shall be constructed to the City’s standard rural road section at the same time that phase 1 is constructed.
- 3) The Westcliffe Heights residential subdivision, or any subsequent name thereof, is subject to dedication or payment of fees for park, recreation and open space land in accordance with the provisions of Richland Municipal Code Section 22.12.
- 4) The Westcliffe Heights residential subdivision, or any subsequent name thereof, is subject to payment of traffic impact fees in accordance with the provisions of Richland Municipal Code Chapter 12.03.
- 5) Stormwater control measures shall be implemented during construction activities, utilizing best management practices in accordance with the Storm Water Control Manual for Eastern Washington and as identified by permit conditions issued by the City of Richland and or the Washington State Department of Ecology.
- 6) An erosion control plan shall be prepared by the applicant and submitted to the City of Richland for review and approval. Erosion control measures shall be maintained throughout the construction of the project.
- 7) If during grading and construction activities archeological resources are uncovered, the developer shall suspend work in that particular area and contact the Washington State Office of Archeology and Historic Preservation to determine a plan for mitigation of the disturbance to the resource.

The SEPA comment period for the MDNS expired on March 22, 2017, with only a single written SEPA comment received on March 16th from the Department of Ecology relating to stormwater NPDES permitting (erosion sediment control plan requirements), and potential soil contamination issues (based upon the historical agricultural use of the land, and the possibility the soil might contain residual concentrations of pesticides), a copy of which is included in the record as part of *Exhibit 8*.

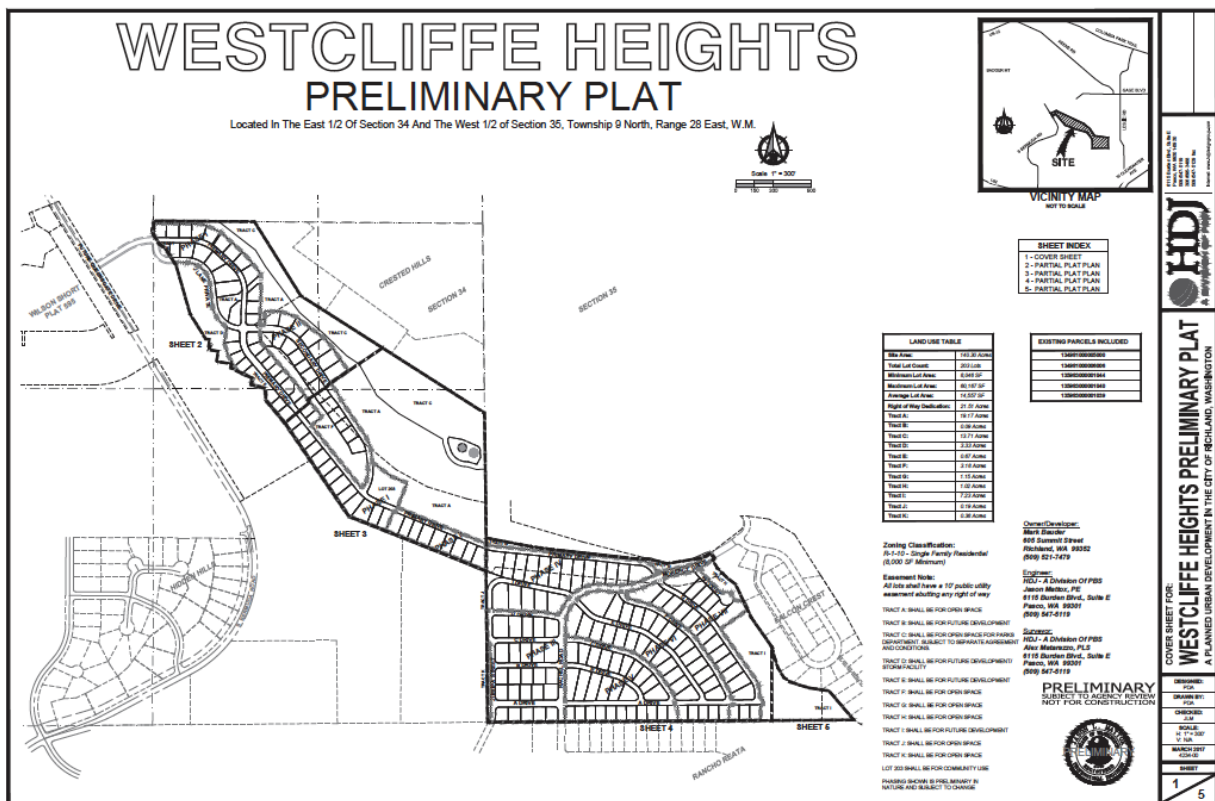
No local residents submitted any written comments regarding the DNS for grading or the MDNS for the plat before the applicable SEPA comment periods expired. Only the Department of Ecology’s Central Regional Office provided timely comments regarding the MDNS, which gives that agency standing to pursue an appeal of the environmental determination for the project. No one appealed either of the SEPA threshold determinations issued for the project. (*See WAC 197-11-545, re: failure to provide timely comment is construed as lack of objection to environmental analysis*). With such documentation and process, the pending application satisfied applicable SEPA review requirements, and stands unchallenged for purposes of this Recommendation.

Public Hearing.

The open-record public hearing for the application occurred on May 4, 2017, wherein the undersigned Examiner presided, and all persons wishing to provide comments were heard, providing testimony under oath. City staff, Applicant representatives and interested citizens appeared at the hearing or submitted written comments regarding the proposed plat. The Examiner visited the site of the proposed project, and public roads leading to and from the vicinity of the proposed plat, several weeks before the hearing, and again after the hearing.

For the reader's convenience, a copy of the Cover Page from the site plans for the proposed plat is provided below:

Exhibit 1



II. CONTENTS OF RECORD.

Exhibits: Staff Report. City of Richland Development Services Division Staff Report and recommendation of approval to the Hearing Examiner regarding “Westcliffe Heights” Preliminary Plat, File No. S2017-101, dated May 4, 2017;

1. Preliminary Plat site plan;
2. Application;
3. Public Notices and affidavits confirming same;
4. Environmental Checklist, for site-grading activities;
5. SEPA Determination of Non-Significance (DNS), for grading;
6. Environmental Checklist, for the proposed plat;
7. SEPA Mitigated Determination of Non-significance (MDNS), for the proposed plat;
8. Written Comments, including those submitted by members of the public at the hearing, and photos referenced by local residents at the hearing;
9. Technical Advisory Committee Report (as REVISED, and forwarded to the Examiner on May 12, 2017;
10. RMC 22.12 – Parks Dedication;
11. Queensgate Traffic Study;
12. Geotechnical Report;
13. Site Photos;
14. Benton County Engineer comments regarding the proposed Westcliffe Heights subdivision, provided before the hearing, in the form on an email dated April 28, 2017, to Shane O’Neill, from Jeff Liner, forwarding proposed condition requested by Benton County, issued by Matt Rasmussen, PE, County Engineer for Benton County. (In this message, the County Engineer seeks to include the following requirements:
“The connection to the current terminus of Morency /drive and the connection of “Primary Drive” from Morency Drive/Rachel Road to “Future Queensgate Drive” and the connection of “Future Queensgate Drive” to the current terminus of Queensgate Drive shall be complete prior to or concurrent with any construction of lots or roadways accessing Rachel Road and/or Jurupa Street. [And, a] Road Approach Permit is required from the office of the Benton County Engineer for connections to Rachel Road and Jurupa Street.”)

Post Hearing Exhibits:

15. City Council meeting materials re: Transportation Impact Fee Program, updates as of 2012, major South Richland transportation infrastructure

- improvements to be funded by such fees, transmitted as a large attachment to the Examiner as requested at the public hearing, from Mr. O'Neill and Mr. Simon on May 12, 2017; and
16. Transportation Impact Fee Update 2012, Excel Spreadsheet showing city's fee calculations for portions of the city, particularly the area where the proposed plat is located in South Richland, identified as "Zone 1" for fee-assessment purposes; lists projects to be funded by impact fees, and for which developers may be eligible for credits if they dedicate lands or expend funds to move such projects forward. This information was requested by the Examiner at the public hearing, and was provided to the Examiner in the form of an email transmitted on May 15, 2017.

Following receipt of the requested post-hearing materials, the Record is closed and this decision is now in order. The Recommendation is delayed due to the volume of materials reviewed to address comments, and due to an electronic transmission challenge in receiving complete copies of some exhibits that are included in the record.

Testimony/Comments: The following persons were sworn and provided testimony under oath at the open-record hearing:

1. Shane O'Neill, Senior Planner, for the City of Richland; and
2. Jason L. Mattox, PE, Senior Engineer/Operations Manager with the PBS Engineering firm, for the applicant;
3. Greg Conover, lives on SE side of proposed plat, towards winery;
4. Jeuno Choe, lives along Falcon Crest Loop, shared photos of vehicle that crashed into his house in or about 2014;
5. Roger Snyder, local resident, expressed concerns about increased traffic along Morency, speeds, safety;
6. Denise Bruce, lives along Rachel Road in unincorporated Benton County;
7. Estella Romjue, of the Badger Mountain Winery, to the south of the plat;
8. Sam Amato, since 2012, resides on Morency Drive, expressed concerns with litter, safety, speed;
9. Bill Bowen, expressed concerns with proposed connections to Jarupa and Rachel Road;
10. J. Raftovich, expressed preference that Little Badger Mountain should be a preserve, left as open space;
11. Janice Simonson, resides along Rachel Drive in the county, not opposed to project but concerned with increased traffic on county roads;
12. Marilyn Taylor, expressed concerns about Bermuda Road;
13. Marlisa Loschvie, works at Badger Mountain Winery, expressed concerns with additional traffic and other perceived impacts;
14. Tony Waldo, commented on Bermuda extension and Rachel Road;
15. Luann Ostergaard, local resident, enjoys riding horse in area, questioned impacts on existing plants and wildlife in the area;
16. Chandra Romel, enjoys hiking in the area, questioned environmental review;

17. Mollie Schlotthauer, Secretary of the Crested Hills HOA, lives on corner of Morency and Clermont, questioned TIA for project, focused on impacts to Morency because she believes Queensgate is just a myth, traffic impacts on local streets, notes school buses do not travel above where she lives;
18. Paul Zalubil, resides on Morency at bottom of hill;
19. Dave Culley, Crested Hills HoA member, expressed concerns about traffic along Morency;
20. Craig Whitely, resides on Morency Drive, Crested Hills Homeowners Association Board Member, described his personal traffic timing observations, believes that travel through Crested Hills neighborhood is shorter and quicker route for residents of the proposed new plat, which could cause perhaps the largest migration change in Richland. Questioned Benton County review of proposed connections by new plat to county roads. Traffic impact questions, especially on local streets in the area (*NOTE: Mr. Whiteley/the Crested Hills HOA submitted written materials before and after the hearing that are included as part of Exhibit 8*).
21. Jeffrey Peters, Transportation and Development Manager for the City of Richland, responded to several comments, noted “traffic calming” efforts by the city to address complaints about speeds and traffic in neighborhoods.

III. APPLICABLE LAW.

Under applicable provisions of the Richland Municipal Code (RMC), a preliminary plat¹ application is first subject to review and approval by city staff with respect to the engineering elements of said plat, then the Hearing Examiner is responsible for conducting an open record public hearing followed by a recommendation to the City Council. A preliminary plat application is a Type III procedure. RMC 19.20.010(C)(1).

As explained in RMC 24.12.050(A), the hearing examiner shall consider any preliminary plat application and shall conduct an open record public hearing in accordance with Chapter 19.60 RMC. After the public hearing and review of materials in the record, the hearing examiner shall determine whether the preliminary plat is in accordance with the comprehensive plan and other applicable code requirements and shall either make a recommendation for approval or disapproval to the city council.

The same provision of the city’s code (RMC 24.12.050) provides that any recommendation for approval of the preliminary plat shall not be given by the hearing examiner without the prior review and approval of the city manager or her designee with respect to the engineering elements of said plat including the following:

¹ In this Recommendation and exhibits included in the Record, preliminary plat and preliminary subdivision mean the same thing, and use of one term should be read to apply to the other to the extent anyone views the terms to have distinct meanings, which for the purposes of this Recommendation, they do not.

1. Adequacy of proposed street, alley, right-of-way, easement, lighting, fire protection, drainage, and utility provisions;
2. Adequacy and accuracy of land survey data;
3. The submittal by the applicant of a plan for the construction of a system of street lights within the area proposed for platting, including a timetable for installation; provided, that in no event shall such a plan be approved that provides for the dedication of such a system of lighting to the city later than the occupancy of any of the dwellings within the subdivision.

The City's decision criteria for preliminary plat approval are substantially similar to state subdivision mandates found in RCW 58.17.110(2)² and reads as follows:

Richland Municipal Code 24.12.053 Preliminary plat – Required findings.

The hearing examiner shall not recommend approval of any preliminary plat application, unless the approval is accompanied by written findings that:

A. The preliminary plat conforms to the requirements of this title;

B. Appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school;

C. The public use and interest will be served by the platting of such subdivision and dedication; and

D. The application is consistent with the requirements of RMC 19.60.095 (addresses transportation concurrency considerations).

And RMC 19.60.095 mandates the following additional findings:

19.60.095 Required findings.

No development application for a Type II or Type III permit shall be approved by the city of Richland unless the decision to approve the permit application is supported by the following findings and conclusions:

A. The development application is consistent with the adopted comprehensive plan and meets the requirements and intent of the Richland Municipal Code.

² "A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. []" RCW 58.17.110(2).

B. Impacts of the development have been appropriately identified and mitigated under Chapter 22.09 RMC.

C. The development application is beneficial to the public health, safety and welfare and is in the public interest.

D. The development does not lower the level of service of transportation facilities below the level of service D, as identified in the comprehensive plan; provided, that if a development application is projected to decrease the level of service lower than level of service D, the development may still be approved if improvements or strategies to raise the level of service above the minimum level of service are made concurrent with development. For the purposes of this section, "concurrent with development" means that required improvements or strategies are in place at the time of occupancy of the project, or a financial commitment is in place to complete the required improvements within six years of approval of the development.

E. Any conditions attached to a project approval are as a direct result of the impacts of the development proposal and are reasonably needed to mitigate the impacts of the development proposal.

The burden of proof rests with the applicant, and any decision to approve or deny a preliminary plat must be supported by evidence that is substantial when viewed in light of the whole record. RCW 36.70C.130(1)(c); and RMC 19.60.060. The application must be supported by proof that it conforms to the applicable elements of the city's development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed. RMC 19.60.060.

IV. ISSUE PRESENTED.

Whether substantial evidence demonstrates that the applicant has satisfied his burden of proof to satisfy the criteria for preliminary plat approval?

Short Answer: Yes

Based on all the evidence, testimony, codes, policies, regulations, environmental documentation, and other information contained in the Record, the Examiner issues the following findings, conclusions and Recommendation to approve the preliminary plat as set forth below.

V. FINDINGS of FACT.

1. Any statements in previous or following sections of this document that are deemed findings are hereby adopted as such, including without limitation the project description and summary of proceedings.

2. The Staff Report and recommendation of approval includes a number of specific findings and conditions that establish how the underlying plat application, as conditioned, satisfies provisions of applicable law, is consistent with the city's Comprehensive Plan, and is designed or conditioned to comply with applicable development standards and guidelines.

Public Hearing Testimony and discussion.

3. At the hearing, Mr. O'Neill summarized his Staff Report and recommendation of approval for the proposed plat.
4. Mr. O'Neill (and the Staff Report) noted that the proposed plat covers an area within the city's urban growth area, which is designated for Low Density Residential land uses in the Comprehensive Plan and is zoned R-1-10 in the City's code. RMC 23.18.010(B) provides that the minimum lot size for the zone is 8,000 s/ft, with an average lot size of 10,000 s/ft. If the site was flat, with no unusual development challenges, given the size of the site (about 140 acres), the applicant could have pursued a design with more than 500 lots. In this application, the steep slope challenges presented by the site limit the development envelope in many respects.
5. The application is well-within the density levels assigned to the subject property, as it seeks to subdivide 140.3 acres into just 203 single family residential lots and eleven (11) tracts.
6. Mr. O'Neill explained that all City services are readily accessible and available to serve the proposed new plat.
7. The applicant's project Engineer and hearing representative, Jason Mattox, from the PBS Engineering firm, appeared at the public hearing and stated that he is in agreement with staff on how the project is presented in the Staff Report and that he has no objections to the recommended conditions set forth therein.
8. Mr. Mattox testified that the pending application complies with all applicable City policies and development regulations; that utility services are available to serve the area; and that he fully understands that the required connection/opening of the new off-site Queensgate extension is a condition that must be satisfied as part of developing the first/initial phase of the proposed plat. As discussed below, to eliminate any misunderstanding on this point, Condition No. 23(A) has been modified to expressly state that: *"The off-site portion of Queensgate Drive and "Primary Drive" shall be constructed to the City's standard rural road section at the same time that the initial phase is constructed."*
9. 18 local residents testified at the public hearing, most of whom apparently live along public streets that would eventually connect to the proposed plat by road-connections and extensions provided as part of the proposed plat. Because virtually all of the public comments opposing the project focused on perceived traffic problems that might result if

the application is approved, the bulk of this Recommendation seeks to address various transportation-related issues associated with the proposed new plat.

Traffic; Levels of Service.

10. Most of the public comments focused upon concerns with future traffic that might pass through the speaker's neighborhood. The testimony was not supported by persuasive engineering data or studies that would rebut the application materials and analysis contained in the Staff Report. The Staff Report, application exhibits and testimony at the public hearing established that existing local streets surrounding the proposed plat are sufficient, will not experience a decrease in the level of service standards set for such streets, and were constructed to city standards, which mandate capacity to serve future development anticipated in the immediate area. (*Staff Report, pages 8, 9, 13, Ex. 11, traffic study; RMC 19.60.095(D), transportation concurrency, level of service standards*).
11. Some witnesses alleged that other jurisdictions seem to do a better job building new streets before subdivisions are approved, or something to this effect. These assertions were not supported by any evidence, as Washington cities and counties have the same tools to address transportation concurrency mandates, which are based on city-established level of service standards. Like many jurisdictions, the Richland level of service is "D" for roadways surrounding the proposed new plat. That is the same standard used by the City of Kennewick, which even allows for an LOS of "F" at some intersections if a project has a "Second Site Access Point within 1/4 mile having a LOS D or better." See KMC 4.12.055. In this matter, the proposed plat will be served with 4 (four) site access points, and none of the surrounding roadways are projected to fall below LOS D. *Staff Report; Traffic Study, Ex. 11.*
12. RMC 24.20.070, captioned "Capacity for future developments", reads as follows: "*The capacities and dimensions of water, sewerage, drainage, and street facilities shall be adequate to provide for the future needs of other undeveloped properties in the general vicinity and the city may share in the cost of these improvements to the extent of the difference in cost between the capacities needed to serve the subdivision and the capacities required to serve the vicinity.*"
13. The applicant submitted a traffic study prepared by Kittelson & Associates, Inc., as part of the application packet. (*Ex. 11*). The study analyzes "routing options" for a future Queensgate Drive Extension that would serve the Bauder property that is the subject of the pending application. In the study, traffic capacities for potentially affected streets are based on the Tri-Cities' transportation planning model used by the Benton Franklin Council of Governments (BFCOG). The Kittelson traffic study noted that a Queensgate extension to connect with either Bermuda Road or Rachel Road would be sufficient to serve the Bauder Property, as well as another neighboring property known as the Wilson Property, with a potential build out up to 1,177 homes. Again, this application is only for the Bauder property, with just 203 residential lots, and the proposed subdivision will

feature a link to the new Queensgate extension, and three other secondary connections – with Rachel, Jurupa, and Morency roadways.

14. Of particular relevance to the pending application is the Kittelson report’s conclusion that Queensgate, Leslie, and Rachel Road are “*all projected to operate well under capacity regardless of which Queensgate Drive Extension alternative is pursued in both the near-term (2020) as well as the 20-year conditions.*” *Ex. 11, page 1.* The traffic study also observes that surrounding routes will remain relatively uncongested and that travel times are relatively comparable, such that the modeling results indicate that neither traffic capacity nor travel times are “differentiators” when selecting an alternative. *Ex. 11, pages 10 and 11.* Finally, the traffic study finds that a secondary connection for the study-area “*should further enhance the local transportation system.*” *Ex. 11, pages 1 and 2.*
15. Based on the traffic study, the Examiner finds that the new plat will enhance, rather than hinder, the local transportation system, with its 4 new connections to the surrounding road network that will substantially extend Queensgate, and provide new travel options for surrounding residents who are now faced with dead-ends or inadequately-connected streets like Rachel, Jurupa and Morency.
16. The Examiner finds that the street network surrounding the proposed plat was designed and constructed to meet city standards, with capacity to provide for the future needs of other undeveloped properties in the general vicinity, specifically including the property at issue in this matter. (*Staff Report; Site visit*).
17. Comments implying that some trip-counts were unacceptable to area residents, without any engineering or Level of Service standard to support such claims, were unsupported and cannot serve as a basis to deny the pending application, which conforms to city-assigned density and land use requirements for the site.
18. The City of Richland’s Citywide Transportation Plan includes an Appendix, available on the City’s website, which provides a “Level of Service Description” that reads as follows:

Analysis of traffic volumes is useful in understanding the general nature of traffic in an area, but by itself indicates neither the ability of the street network to carry additional traffic nor the quality of service afforded by the street facilities. For this, the concept of level of service has been developed to subjectively describe traffic performance. Level of service can be measured at intersections and along key roadway segments.

Level of service categories are similar to report card ratings for traffic performance. Intersections are typically the controlling bottlenecks of traffic flow and the ability of a roadway system to carry traffic efficiently is generally diminished in their vicinities. Levels of Service A, B and C indicate conditions where traffic moves without significant delays over periods of peak travel demand. Level of service D and E are progressively worse peak hour operating conditions and F conditions represent where demand exceeds the capacity of an intersection. Most urban communities set level of service D as the minimum acceptable level of service for peak hour operation and plan for level of service C or better for all other times of the day.

19. As noted above, the City of Richland, and Kennewick, apply an LOS “D” for local streets. D is not failing, and does not imply substandard roadway capacity. For a local street, transportation staff analyzes the density of traffic over a given period of time, including during peak traffic hours, for a lane of traffic, to generally determine the volume to capacity ratio. Trip generation forecasts are one element of an LOS determination, but not the only one. Speeds, delays caused by any physical conditions on the roadway, and other factors are also considered. Allocation of potential trips is also important. Obviously, a transportation network with more instead of fewer travel options will provide for a better Level of Service throughout the system, although some local streets may see increases from artificially-low volumes enjoyed before “full build-out” occurs in particular subdivisions.

Zoning, Density, Transportation Planning for the South Richland Area.

20. One of the witnesses represented that he spoke on behalf of his neighborhood association. In his remarks and questions, he generally indicated his displeasure with city zoning and development policies in the South Richland area.
21. Placing the comments in context, it should be noted that the pending Westcliffe plat was submitted under long-established city development regulations and transportation plans that were in place at the time the Crested Hills, Falcon Crest and other newer South Richland subdivision projects were constructed. The impact fee program for the area was adopted in or about 2004. *See* RMC Chapter 12.03, originally adopted by Ord. 39-04. In the last few years, these South Richland neighborhoods and many individual single family lots were developed in the city of Richland, largely relying upon the same impact fee program and road network plan that is moving forward over time.
22. The greater South Richland transportation network will take a substantial step forward with the Queensgate extension/connection required as part of the Westcliffe Plat and other related connections and improvements associated with the Westcliffe project. The city’s comprehensive plan, street system plans, and particularly its six-year transportation improvement program (TIP) and capital facilities plan (CFP) for the South Richland area all were developed after extensive public processes, environmental reviews, and traffic analyses – which is/are based on “full-buildout” of the South Richland subarea, under zoning and density standards applicable to undeveloped properties.
23. The pending plat application falls below the density level assigned to the property. General comments requesting a separate environmental impact statement for the project were not supported by any evidence that would invalidate the unchallenged environmental and traffic studies used to generate the South Richland traffic impact fee program. An EIS would be appropriate if an applicant sought to develop a property in a manner that exceeds the assigned density under applicable zoning standards, or requested to use the property for some purpose other than single family residential uses, like retail, office or other activities that might generate traffic counts in excess of those anticipated for single family residential

densities and uses. That is not the case here, so the city's traffic impact fee contributions by the applicant conform to city and state transportation concurrency requirements.

24. While of little solace to local residents who are/were fortunate enough to purchase homes along relatively light-travel roadways, as adjacent lands lie undeveloped for several years, the fact and reality remain that the City's development regulations allow surrounding landowners to develop their properties and connect with public streets built in the area. Blocking public streets to "resident-only" or "emergency-only" use, as requested in this hearing process, would run counter to long-standing Washington Constitutional provisions and caselaw that prohibits the use or conversion of public assets and properties [like streets] for private purposes. (*Constitution of the State of Washington, Article VIII, Sec. 7*).
25. "First-in" does not entitle one to the artificially-low traffic levels experienced by residents on streets that were planned and built to serve undeveloped lots, or for future extensions, connections, and the like. Instead, a temporarily-lightly-travelled public street (always a matter of perspective to the affected party) was/has been built to serve new neighbors, and to provide initial "pioneers" in the South Richland area with additional options to travel in and out of their part of the community which they did not/have not had until new parts of the area are platted and developed over time.
26. "Growth should pay for growth" is a fundamental policy behind many development regulations adopted under Washington's Growth Management Act. The City's transportation impact fee program at issue in this application, found in RMC Chapter 12.03, is partly based on this policy, in that new developments are required to pay transportation impact fees to help fund construction of a long list of new road projects in the South Richland area, like those listed in RMC 12.03.190.
27. The authority and purpose of the city's South Richland traffic impact fee program is set forth in RMC 12.03.010, which reads in relevant part as follows: "*The South Richland traffic impact fee program has been developed pursuant to the city of Richland police powers, the Growth Management Act as codified in Chapter [36.70A](#) RCW, the enabling authority in Chapter [82.02](#) RCW, Chapter [58.17](#) RCW relating to platting and subdivisions and the State Environmental Policy Act (SEPA), Chapter [43.21C](#) RCW. The purpose of the traffic impact fee program is to: A. Develop a program consistent with Richland's comprehensive plan, the six-year transportation improvement program (TIP) and the capital facilities plan (CFP), for joint public and private financing of transportation improvements necessitated in whole or in part by development within the program boundary; B. Ensure adequate levels of transportation and traffic service consistent with the level of transportation service identified in the comprehensive plan and this title; [and] C. Create a mechanism to charge and collect fees to ensure that all new development bears its proportionate share of the capital costs of off-site transportation facilities directly necessitated by new development [...].*"
28. RMC 12.03.180, captioned "Relationship to concurrency", reads as follows: "Development proposals that are submitted in general conformance with the assumptions

made for land uses and scale/density will be deemed to meet the concurrency requirements of the Growth Management Act by paying the appropriate transportation impact fee. A development proposal not meeting such may require additional review and studies to determine concurrency.” Again, as noted above, the pending application is for the type of land use assigned under city zoning codes, i.e. single family residential, and the scale/density of the project is actually below the density assigned to the lands at issue in this matter.

29. Traffic impact fees are established using density calculations assigned to affected properties in the area, as though full-buildout will one day occur. Therefore, many new road projects will await collection of sufficient fees or other public funds before they can be constructed. In a “perfect world”, all development and full-buildout would occur very quickly, meaning that a windfall of traffic impact fees would land in city coffers to be used to rapidly design, acquire land, and build new roads throughout the South Richland area. Nothing is perfect. Public infrastructure takes time and money. Subdivisions boom, and some may bust (or lay unbuilt for an extended period of time) as demonstrated during the recent “Great Recession”. In any event, as more new neighborhoods are approved and more homes are built, then more impact fees will be collected, and more new roads will be constructed. Growing pains can and will occur as initial buyers have to await completion of new or extended roads that will eventually provide them with a better-connected street network providing alternate routes of travel. The other option, to waiting for impact fees to be collected, could unreasonably shift the cost-burden of building new streets on Richland residents who live in other parts of the city and have no particular need for the new street network in the new South Richland area. The Examiner does not have the authority to recommend denial of a proposed plat because the “whole” road network is not yet complete in the South Richland area. Instead, state law and city development regulations properly mandate that developers pay their fair share, in the form of impact fees, internal street construction, frontage improvements, connections with and extensions of necessary access roads, and similar public infrastructure improvements.
30. In this application, the project will eventually have 4 points of access, which will all be public, and will all provide existing neighbors with alternate routes of travel through Richland’s expanded road network.

Morency Drive Comments.

31. Several witnesses devoted time and attention to their concerns with unsafe driving along Morency, especially along the switch-back/steep portions of the roadway. Photos of car-vs-house collisions establish that some drivers use the roadway in a negligent and reckless manner, placing other people and property in danger. However, the record does not show that street-closure or limiting travel to current residents is the solution. Ongoing traffic calming efforts, including enforcement of traffic safety and speeding laws, are and should be a priority for appropriate city departments.

32. The applicant in this matter cannot be held responsible for the bad driving habits of some travellers.
33. More significantly, witness testimony established that the steeper parts of Morency pose challenges to some drivers during periods of inclement weather, and some witnesses generally indicated their desire to use a straighter roadway, instead of the switchback sections of Morency. The pending plat application includes a number of road extensions and connections, as well as new internal streets, that will provide existing neighborhoods with alternate routes to travel instead of using Morency.
34. Morency is not a straight-line, it is very steep, and several other routes will be available once the entire Westcliffe plat is constructed. Its condition (steep and curvy) will serve as a self-limiting deterrent for many drivers who will choose to drive on straighter, less-steep roadways. While not part of this Recommendation or plat approval process, obviously, any traffic calming measures deployed as deemed necessary or appropriate by the City's transportation staff, could serve to limit speeds, and perhaps volumes of traffic, as people choose to avoid speed-bumps and the like.
35. The Examiner finds that the record includes ample evidence and testimony which establishes how Morency may not experience a substantial increase in travel, but may remain the same or even decrease over time, once driver preferences for straighter, less-steep routes of travel are fulfilled with the new alternate roadways to be constructed as part of the Westcliffe plat. Common sense and human nature support a finding that Morency will not draw all new traffic generated by the new plat. The Kittelson traffic report explains that additional connectivity should further enhance the local transportation system. Some witness comments seemed to imply that most, if not all, drivers should be expected to travel to and from Kennewick to the east. Instead, the Record and the Richland Transportation infrastructure plans for the Queensgate area, including the new Duportail Bridge, will serve as a draw for new residents to destinations to the west of the new plat, including the employment centers in the City of Richland. In short, Morency won't be the only way to go.

Sequencing of access points to serve the proposed new plat.

36. On the question of sequencing construction and opening of new access points for the new plat, first, the Queensgate connection will be constructed and opened as part of the initial plat-development, wherever lots are first developed in any Phase of the plat identified in Exhibit 1. *See REVISED Condition No. 23(A)*. New residents are likely to "learn" that travel route, and form habits regarding their use of the new Queensgate access point.
37. Next, the connection with Morency by the new plat's "primary drive" will be constructed and opened before the final platting of 26 or more lots within portions of the new plat identified as Phases 3 through 7 of the Westcliffe Plat depicted on Exhibit 1. *See REVISED Condition No. 23(B)*.

38. Last, although possibly concurrent with development of the Morency connection, the plat will link with Jurupa Street and Rachel Road, resulting in 4 (four) site access points for the new plat, and providing Falcon Crest residents with several alternate routes instead of just one that they have now, down Morency. The final connections (with Jurupa and Rachel) will be subject to prior review and approval of necessary right-of-way permits from Benton County. *See REVISED Condition No. 23(C).*

Additional Condition of Approval, supported by evidence in the record.

39. Just as with another recent plat in the same general area, several local residents expressed compelling concerns with the impacts of construction-activities, like trucks hauling materials along local streets, passing by areas with pedestrians and children, potentially impacting traffic, street cleanliness, noise and the like.
40. Many citizens providing comments explained that they were not opposed to new development, but that they wanted to be sure that potential impacts on their existing streets and neighborhoods would be adequately addressed, as the plat is developed and after homes are occupied. These concerns were thoughtfully presented, and supported by personal descriptions of previous projects that involved noisy trucks driving uphill to new construction sites, the speed and frequency of trucks driving along local streets to access new development sites, and local residents coming and going (by foot or car) to view points leading to/coming from the proposed new plat.
41. The Examiner conducted a site visit several weeks before the hearing, and again in the days following the hearing, visiting the street network surrounding the project site, driving and walking along existing unimproved trails through portions of the proposed plat, and neighborhoods surrounding the project, including those along Rachel Road, just down hill from the proposed development site where several hearing-witnesses reside or work. For similar reasons to those involved in the most recent preliminary plat application considered by the Examiner in the same general area of South Richland, and given that the new plat is served by local streets that will be impacted by construction traffic coming and going to the site as the project is developed, all supported by credible and convincing concerns with construction-related traffic expressed in public comments, the Examiner recommends an additional Condition of Approval, authorizing the Public Works Director to issue a Right of Way permit prior to issuance of any other permit associated with development of or within the new plat that the Director determines is likely to have a material impact on any segment(s) of the city's existing public street network that will be used to obtain access to and from the plat-development site(s). The additional Condition reads as follows:

RIGHT OF WAY PERMIT

Based on compelling testimony and evidence contained in the record for this matter that demonstrated a need for specific conditions to reduce the impacts of construction-related traffic that will move through surrounding neighborhood streets as the new plat is developed and homes are constructed therein, and under authority granted in development regulations found in the Richland Municipal Code, including without limitation RMC Chapter 12.08

(Right of Way Permits) and the purpose and intent of erosion, dust, traffic, pedestrian-safety and water-pollution control regulations set forth in other provisions of the RMC, the following Condition shall be satisfied prior to issuance of any clearing and grading, building, demolition, or other construction permit associated with development of or within the new plat that the Public Works Director determines is likely to have a material impact on any segment(s) of the city's existing public street network that will be used to obtain access to and from the plat-development site(s):

The applicant is required to apply for a Right of Way Permit before the issuance of any grading, building, demolition, or other construction permit associated with development of or within the new plat that the Public Works Director determines is likely to have a material impact on any segment(s) of the city's existing public street network that will be used to obtain access to and from the plat-development site(s). In some cases, more than one Right of Way Permit may be required, such as one for hauling and one for construction work within the right of way. A Right of Way Permit issued under this Condition is intended to regulate activity within the city right of way, and is required of any person who performs construction-related work within existing or proposed city rights-of-way, easements, or on city-owned infrastructure, including without limitation the following:

- a) Designated truck hauling routes.
- b) Truck loading and unloading activities.
- c) Hours of construction and hauling.
- d) Continuity of pedestrian facilities.
- e) Temporary traffic control and pedestrian detour routing for construction activities.
- f) Street sweeping and maintenance during excavation and construction.
- g) Location of construction fences.
- h) Parking for construction workers.
- i) Construction vehicles, equipment, and materials in the right of way.
- j) All other construction activities as they affect the public street system.

In addition, the applicant shall submit for review and approval by the Public Works Director a plan for providing pedestrian access on existing public streets that are impacted during construction of this project (if any). Access on such existing public streets shall be provided at all times during the construction process, except when specific construction activities such as shoring, foundation work, and construction of frontage improvements prevents access. General materials storage and contractor convenience are not reasons for preventing access along streets, sidewalks or other portions of the city street system surrounding the new plat.

REVISED Condition to Incorporate input from Benton County with respect to road connections with county roadways, Jurupa Street and Rachel Road – Modification to Condition No. 23.

42. During the public hearing, several witnesses expressed legitimate concerns that roadway connections proposed to occur with existing county roadways should reasonably consider input from Benton County officials who are responsible for maintaining adequate levels of service and addressing potential impacts on such facilities. Recommended Condition No. 8 already addressed the issue, by requiring final plat drawings to include comments and conditions from all reviewing jurisdictions, including Benton County. Nevertheless, City staff and Applicant representatives confirmed that they had

communications with County officials prior to the hearing³ and agreed to reach out to Benton County road officials, to emphasize their opportunity to comment on the proposed plat, particularly the proposed connections with existing county streets generally running downhill to the south of the plat. As a result of these discussions, the Examiner received materials that are now included in the Record as Exhibit 15⁴, which establish that Benton County has no objection to the proposed plat's connections with the county street system, subject to a stipulated modification to proposed Condition No. 23. The modified language was developed following a meeting between City staff, the applicant team, and Benton County staff on May 10, 2017. At their meeting on May 10th, the city, county and applicant teams discussed connecting new City roads proposed as part of the Westcliffe Heights preliminary plat to Jurupa Street and Rachel Road across the city limits, and any associated requirements that might be requested by the County. (*Ex. 15*).

43. Based on the commendable, good faith efforts of city, county and applicant teams to ensure that the public interest is considered in the potentially-affected Benton-County neighborhoods adjacent to the proposed plat, as reflected in the parties' stipulated recommendation included as part of *Exhibit 15*, the Examiner finds and concludes that Condition of Approval No. 23 should be modified to read as follows:

23. A) The off-site portion of Queensgate Drive and "Primary Drive" shall be constructed to the City's standard rural road section at the same time that the initial phase is constructed.

B) The "primary drive" shall be constructed to establish an access route connecting Morency Drive to Queensgate Drive prior to the final platting of the 26th lot belonging to Phases 3 through 7 as indicated on the Preliminary Phase Exhibit sheet of Exhibit 1 as contained in the May 4, 2017 staff report.

C) The applicant shall obtain all necessary right-of-way permits from Benton County prior to constructing road connections to Jurupa Street and Rachel Road.

Street network complies with city standards, new connections and dedicated open spaces provide benefits to existing neighborhoods.

44. Several public comments indicated a desire to minimize neighborhood connectivity, so their street could remain as-is, with no more drive-through traffic. This would create an

³ Ex. 8 includes an April 28, 2017 email to the City (Shane O'Neill), from the Benton County Engineer, Mr. Rasmussen, asking if the future Queensgate Drive will be built before any construction in the subdivision begins, and commenting that: "The connection to the current terminus of Morency Drive and the connection of "Primary Drive" from Morency Drive/Rachel Road to "Future Queensgate Drive" and the connection of "Future Queensgate Drive" to the current terminus of Queensgate Drive shall be complete prior to or concurrent with any construction of lots or roadways accessing Rachel Road and/or Jurupa Street." And "A Road Approach Permit is required from the office of the Benton County Engineer for connections to Rachel Road and Jurupa Street."

⁴ *Ex. 15*, includes the REVISED Technical Advisory Committee Report, modifying proposed Condition No. 23, to incorporate input from Benton County, as requested by the Examiner at the public hearing; with correspondence from Matt Rasmussen, P.E., as County Engineer for Benton County, and from Jason Mattox, P.E., with PBS Engineering, as Applicant's project engineer, concurring with modification to proposed Condition No. 23, all transmitted and dated May 12, 2017.

inequity in the city's road network system and runs counter to policies that support connectivity, looping, and more, instead of very few, travel alternatives – including fire evacuation routes – for area residents.

45. The Examiner finds that City streets are public, and are designed and built to serve more than just the resident whose home receives access by such street. None of the comments provided were supported by credible data or evidence sufficient to rebut the traffic analysis provided by the applicant's engineer or city public works staff.
46. The applicant's engineer and city staff confirmed that the proposed plat will not violate city road standards, and will not cause any levels of service on the surrounding street network to fall below city standards.
47. Quite the opposite, the new streets constructed as part of the proposed plat will enhance circulation and travel options for existing neighborhoods surrounding the new subdivision, specifically including the previously-approved city plats where most of the local residents who testified at the public hearing reside.
48. The developer of the new subdivision is required to add to the public recreational opportunities for the new residents, as well as surrounding neighborhoods, in the form of open space and potential new trail connections that will be provided as the new plat is built-out. Many witnesses spoke about the top of Little Badger Mountain, and how they enjoy walking along the crest. Before this project, most of the area was purely private property. After dedications required as part of this application, the public will be able to enjoy access to open space along the top of Little Badger Mountain for many years to come. In the end, there will be more and expanded open space and recreational opportunities for existing residents living in neighborhoods surrounding the new plat.
49. The Rules of Procedure for the Richland Hearing Examiner explain that the Examiner is not to be concerned with the popularity of a matter presented but whether it meets the requirements of the applicable code, policy or regulation. The examiner's decision or recommendation must be based on the record of the proceedings before the examiner. (*Richland Hearing Examiner Rules of Procedure, Introduction, at page 2*).
50. RCW 58.17.110(2) expressly mandates that a city "shall approve" a proposed subdivision that makes appropriate provisions for various factors, all addressed in the city's approval criteria set forth in RMC 24.04. The Staff Report, testimony at the public hearing, and written materials included in the Record, all establish that the proposed application, as conditioned, makes appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school.

51. Denial of the pending application would run counter to city zoning, subdivision, and development regulations in effect at the time the a complete application for the Westcliffe Plat was submitted. Zoning, density, environmental, transportation concurrency and other requirements needed for approval have all been satisfied as discussed herein.

Compliance with city development regulations achieves consistency with the Comprehensive Plan

52. RMC 24.04.020 explains that the purpose of the City’s platting and subdivision codes is “*in furtherance of the comprehensive plan of the city*” and that such regulations contained in the city’s platting and subdivision codes “*are necessary for the protection and preservation of the public health, safety, morals and the general welfare, and are designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote the coordinated development of unbuilt areas; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; and to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements.*” The effect of this provision boils down to this: compliance with the City’s Comprehensive Plan can be established, or at least partially established, through compliance with the city’s platting and subdivision regulations found in Title 24 of the Richland Municipal Code. In this matter, substantial evidence in the record establishes compliance by the proposed plat (as conditioned herein) with the city’s land platting regulations that are applicable to this project, thus implementing and complying with the City’s Comprehensive Plan. (*See Staff Report, all Findings*).
53. Despite evidence to the contrary, one of the hearing witnesses alleged that a previous recommendation issued for another recent plat in the same general vicinity was somehow inadequate for chasing down a rabbit hole of some sort. Instead, the facts remain the same in this subsequent Westcliffe preliminary plat application. Thus, the Examiner once again finds and concludes that there is no regulation, precedent, principle or rule established by the Richland City Council that would prevent “any” increase in traffic into the Crested Hills subdivision, or along Morency, that would serve as a basis to deny the pending plat application.
54. No one presented any credible, substantial evidence to rebut City staff’s determination explained in the Staff Report that the proposed plat would not cause the level of service standards on any adjacent streets to fall below the levels set by the Richland City Council in RMC 19.60.095(D). Substantial evidence in the record establishes that the South Richland transportation system improvements, funded in part by transportation impact fees to be paid by the developer of the proposed plat, more than satisfies the transportation concurrency mandates explained in the same provision of the City’s code.

55. The traffic study relies upon the current standard for trip generation estimates, used by the City of Richland, the Washington Department of Transportation, and virtually every municipal jurisdiction in the State of Washington – the Institute of Transportation Engineers (ITE) Trip Generation Manual, 9th Edition. Ex. 11, page 10; Official Notice taken by the Examiner, based on experience, knowledge and expertise working with jurisdictions throughout the State of Washington. Level of Service Standards are based upon trip generation estimates for various uses. Here, the “single-family residential” uses and densities have been used for determinations provided by staff, and for purposes of analyzing current and future capacity for local streets to remain within the designated LOS standard, of “D”. There was no credible or convincing evidence in the record to demonstrate or establish how any street in the surrounding road network will fall below LOS “D” if the proposed plat is developed as conditioned herein. If anything, the likelihood of any route falling below the designated LOS standard will only increase if fewer, instead of more, access connections are made in and out of the proposed new plat.
56. The applicant’s proposed plat design, including without limitation the new internal streets and additional connections they will make with existing local streets in the area, as conditioned by professional city engineers and planners tasked with responsibility to ensure compliance with applicable city codes and policies, merits approval.

Proposed plat will provide public benefits

57. The applicant’s submittals and the Staff Report establish that some aspects of the new subdivision will provide a public benefit, including without limitation, new housing inventory and options fulfilling the city’s goals and policies set forth in the Comprehensive Plan, open space, potential new trail connections, construction of new roads, sidewalks, an attractive street system to serve the new plat as well as adjacent residents, and other features that will serve to promote health benefits of a walkable, appropriately connected, pedestrian-friendly community.
58. Except as modified in this Recommendation, all Findings, and statements of fact contained in the Staff Report, are incorporated herein by reference as Findings of the undersigned-hearing examiner.⁵

Substantial evidence demonstrates the proposed project, as conditioned, satisfies approval criteria.

59. The record contains substantial evidence to demonstrate that, as conditioned, the proposed plat makes appropriate provisions for:

⁵ For purposes of brevity, only certain Findings from the Department’s Recommendation are highlighted for discussion in this Recommendation, and others are summarized, but any mention or omission of particular findings should not be viewed to diminish their full meaning and effect, except as modified herein. The Examiner notes that manifest errors included in the Staff Report have been disregarded, such as references to connections with Gage Blvd. and credits for same, appearing on page 16.

- A. The public health, safety, and general welfare: *See Staff Report, including without limitation the Analysis provided on pages 10, 11 and 12, and proposed findings on pages 14 and 15.*
- B. Open Spaces: Seven tracts, totaling 38.8 acres, are designated as open space in the new plat. The project includes “Tract C” which will be transferred to the city for a new hiking trail that will soon connect with the existing hiking trail network in the area. The Parks Commission recommended acceptance of Tract C to fully satisfy the developer’s otherwise-applicable park impact fees for the new plat. Tract C is a 13.71 acre section of land that will be dedicated to the city for public recreation purposes. *See Staff Report, pages 3, 10, 14 and 15, and discussion in item H below.*
- C. Drainage Ways: the project will be consistent with all applicable standards for stormwater system design, including without limitation the Department of Ecology Stormwater Management Manual for Eastern Washington. Consistent with City development standards, the plat will provide on-site stormwater detention. The 3.33-acre Tract D is designated for future development and to serve as a stormwater retention/infiltration facility. Foreseeably, the stormwater facility portion of Tract D will be transferred to the City of Richland. *Staff Report, page 11; Ex. 9, Technical Advisory Committee Report, recommended Storm Water conditions 39-50.*
- D. Streets or roads, alleys, other public ways: the proposed plat has been reviewed by the City for compliance with applicable street system design requirements, and has been deemed consistent with all applicable city standards for city roads, streets, driveways, access, circulation, transportation concurrency and the like. *Staff Report; Exhibit 1, site plan; and REVISED Technical Advisory Committee report and proposed conditions, including without limitation modified condition 23.*
- E. Transit stops: To the extent transit stops are or may be located nearby to serve residents of the proposed plat, or Richland residents generally, the subdivision design, access and internal circulation patterns, as conditioned, are appropriate to allow for pedestrians and vehicles to access arterials and other routes that could direct users to existing or future transit stops and facilities. The proposed plat is within the Ben Franklin Transit service area, which provides service along Keene Road and Gage Boulevard, approximately 3.5 miles to the east of the new plat. *Staff Report, page 11.*
- F. Potable water supplies: The new subdivision will receive its domestic water supply from the City of Richland. Staff confirms that adequate capacity is available within the city’s water supply system to provide both domestic water and fire flow service to the new plat. An irrigation source and distribution system, entirely separate from the City’s domestic water system, shall be provided for this development. Badger Mountain Irrigation District has provided comments related to utility infrastructure protection and grading (see comments, as part of Exhibit 8). *Staff Report, page 11; Ex. 9, recommended Domestic Water conditions on pages 5 and 6, and recommended Irrigation condition no. 16.*

- G. Sanitary systems: The City's sewer system has capacity to serve the proposed plat, and will do so. *Staff Report, at page 11; Ex. 9, recommended Sanitary Sewer conditions on page 6.*
- H. Parks and recreation, playgrounds, schools: Open Space Tracts A, F, G, H, J and K will provide passive recreational opportunities to the residents of the new plat, to be held and managed by the Westcliffe Heights homeowners association. Tract C is a 13.7-acre area that will be dedicated to the city for public recreation purposes, all as recommended by the City's Parks Commission. Crested Hills Park is a public 5.8-acre neighborhood park located approximately 665 feet east of the proposed plat. Badger Mountain Park, with 41.5 acres, is located about 2 miles from the proposed plat, and contains outdoor sports fields and courts able to serve recreational needs in the vicinity, including the new plat. *See Staff Report, page 11; Ex. 1, site plans for new plat.* The plat is located in the Richland School District. Orchard Elementary School is located 1.6 miles away from the new plat, on Gala Way. The School District did not provide any comments after receiving city notice regarding the project. *Staff Report, pages 11 and 15.*
- I. Planning features to assure safe walking conditions for students: See street network, road design and sidewalks proposed for plat. *Staff Report; Ex. 1, site plans for new plat.*

60. Based on all evidence, exhibits and testimony in the record, the undersigned Examiner specifically finds that the proposed plat, as conditioned below, makes appropriate provisions for the considerations detailed in applicable law, including without limitation RMC 24.12.050, .053, and 19.60.095, and that the public use and interest will be served by the proposed plat and associated dedications and improvements.

VI. CONCLUSIONS of LAW.

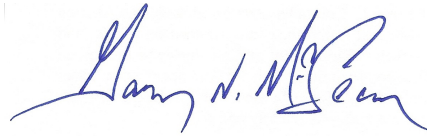
1. Based on the Findings as summarized above, the undersigned examiner concludes that the proposed plat, as conditioned below, conforms to all applicable zoning and land use requirements and appropriately mitigates adverse environmental impacts. Upon reaching such findings and conclusions as noted above, the preliminary plat meets the standards necessary to obtain approval by the City.
2. The proposed conditions of approval as set forth in the Technical Advisory Committee REVISED Report included in the Record as *Exhibit 9*, are reasonable, supported by the evidence, and capable of accomplishment; provided, however, for reasons explained in Finding No. 41, an additional condition of approval with specific Right of Way Permit requirements should be included to read as set forth therein.

3. Any Finding or other statements in previous or following sections of this document that are deemed Conclusions are hereby adopted as such.

VII. RECOMMENDATION.

Based upon the preceding Findings of Fact and Conclusions of Law, evidence presented through the course of the open record hearing, all materials contained in the contents of the record, and the Examiner's site visit, **the undersigned Examiner recommends that the City Council APPROVE the "Westcliffe Heights" Preliminary Plat** application, subject to the proposed Conditions of Approval included in the City's REVISED Technical Advisory Committee Report, as modified or supplemented in this Recommendation, which are adopted herein by reference.

Recommendation issued: July 6, 2017.



Gary N. McLean
Hearing Examiner for the City of Richland

SECURITY AND IMPROVEMENT AGREEMENT

THIS SECURITY AND IMPROVEMENT AGREEMENT ("Agreement") is made and entered into on this 14th day of may, 2021 by and between the **City of Richland**, a Washington municipal corporation ("City"), and **Pahlisch Homes, Inc.**, a corporation ("Developer") seeking final plat approval of "Westcliffe Heights Phase 3". City and Developer are referred to collectively as the "Parties."

I. RECITALS

WHEREAS, pursuant to Chapter 24.12 of the Richland Municipal Code (RMC), Developer has filed with the City an application for final plat approval of "Westcliffe Heights Phase 3" (the "Project"); and

WHEREAS, Westcliffe Heights Phase 3 was given preliminary plat approval by the Richland City Council on May 4, 2017, subject to the conditions of approval listed in Technical Advisory Committee (TAC) Report TAC #S2017-101 and the applicable state and local development regulations in existence at the time; and

WHEREAS, RCW 58.17.170 provides that final plat approval shall be given by the City when the City finds that the subdivision proposed for final plat approval conforms to all terms of the preliminary plat approval, and that said subdivision meets the requirements of RCW 58.17, other applicable state laws, and any local ordinances in effect at the time of preliminary plat approval; and

WHEREAS, under circumstances where the improvements and land division work required by the RMC and the conditions of approval are not complete prior to a developer's application for final plat approval, RCW 58.17.130 and RMC 24.24.020 allow a developer to comply with the conditions of approval by entering into a secured agreement with the City to complete the improvements and land division work within a period of time specified by the City; and

WHEREAS, pursuant to RMC 24.12.090, upon receipt of a final plat application, the City Engineer is required to review the plat to determine whether minimum improvements have been provided as described by the RMC. If minimum improvements are lacking, the plat shall be rejected; and

WHEREAS, in consideration of final plat approval for the proposed Project by the City prior to completion of improvements, Developer desires to enter into this Agreement whereby Developer promises to install and complete, at its sole expense, all public improvement work required by the City for the proposed Project. Developer has secured this Agreement by improvements security required by RMC 24.24.020; and

WHEREAS, improvement plans and related specifications for the construction, installation and completion of the improvements identified herein have been prepared by the Developer, approved by the City, and are on file in the City's Public Works Department. Said improvement

plans and related specifications are incorporated herein by this reference.

NOW, THEREFORE, in consideration of the approval by the City of the Final Plat of Westcliffe Heights Phase 3, Developer and City agree as follows:

II. AGREEMENT

1. DEVELOPER'S OBLIGATION TO CONSTRUCT IMPROVEMENTS

- a. At its sole expense, Developer shall, in compliance with state law, the improvement plans approved pursuant to Right-of-Way Construction Permit No. PW-20-01909, and all applicable City standards, furnish, construct, install and guarantee the improvements described in the Westcliffe Heights Phase 3 preliminary plat, the Richland Municipal Code, and the conditions of approval (the "Improvements").
- b. Developer shall acquire and dedicate, or pay the cost of acquisition of, all rights-of-way, easements and other real property for the construction or installation of the improvements, free and clear of all liens and encumbrances.
- c. Subject to any time extensions granted in accordance with Section 4, Developer shall complete all Improvements within twelve (12) months of the effective date of the agreement; provided, however, that if the City Engineer reasonably determines that accelerated construction of the Improvements is essential in order to protect the public health, welfare and safety, including, without limitation, providing for the orderly subdivision of the surrounding area, the City Engineer shall give Developer not less than fifteen (15) calendar days' prior written notice to commence or accelerate installation and construction of improvements, or any portion thereof. The notice shall describe the work to be done by the Developer, the time within which the work will commence, and the period within which the work will be completed. All or any portions of said Improvements may be required to be constructed or completed at a specified time.
- d. If improvements to be constructed by Developer include monumentation, such monumentation shall be installed no later than thirty (30) days after the City's acceptance of all other Improvements pursuant to Section 2. As used herein, "monumentation" shall mean the setting of survey monuments and tie points in accordance with the Revised Code of Washington and Richland Municipal Code, and the delivery to the City Engineer of tie notes for said points.
- e. Developer shall, at its sole expense, replace or repair all existing and newly constructed public improvements, public utility facilities, and surveying or subdivision monuments which are destroyed or damaged as a result of any work under this Agreement. Any such replacement or repair shall be subject to the approval of the City Engineer.
- f. Until any category of Improvements is accepted by the City, Developer shall be responsible for the care and maintenance of such improvements and shall bear all risks of loss or damage to said improvements. Neither City, nor its officers, agents and employees, shall

have any liability for any accident, loss or damage to the Improvements prior to their completion and acceptance by the City.

- g. Developer shall, at its sole expense, obtain all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices, and pay all fees required by the federal, state, county, town or improvement district and all taxes required by law.
- h. Not less than fifteen (15) days prior to commencement of work on the Improvements, Developer shall give written notice to the City Engineer of the date fixed for such commencement of work in order that the City Engineer shall have adequate time to schedule all necessary inspections.

2. INSPECTION OF WORK AND FINAL ACCEPTANCE

- a. Developer shall at all times maintain proper facilities and safe access for inspection for the Improvements by the City Engineer.
- b. Upon completion of the work on all or any category of the Improvements specified in Schedule A, the Developer may request a final inspection by the City Engineer. If the City Engineer determines that all or any specified category of the Improvements have been completed in accordance with this Agreement and in compliance with the Improvement Plans and all applicable City standards, then the City Engineer shall certify the completion of such Improvements.
- c. Developer understands and agrees that no building permits for homes to be constructed on the lots located within Westcliffe Heights Phase 3 will be issued by the City of Richland Building Department until the minimum improvements identified in Schedule A are inspected and accepted by the City Engineer. Developer shall include this notice of restriction in all contracts for sale of lots within Westcliffe Heights Phase 3 to homebuilders until the restrictions of this subsection c. are no longer applicable.

3. GUARANTEE AND WARRANTY OF THE IMPROVEMENTS

- a. If, within a period of one (1) year following the acceptance by the City of the last of the Improvements specified in Schedule A, any Improvements or part of any Improvements furnished, installed or constructed by the Developer, or any of the work performed under this Agreement, fails to comply with any requirements of this Agreement, or the Revised Code of Washington, Richland Municipal Code, or the Improvement Plans and related specifications, the Developer shall, without delay and without cost to the City, repair, replace, or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements.
- b. Should the Developer fail or refuse to act promptly or in accordance with subparagraph A above, or should the exigencies of the situation require repair, replacement or reconstruction to be undertaken before the Developer can be notified, then the City may,

at its discretion, make the necessary repairs or replacements or perform the necessary reconstruction. If the Developer's improvement security does not cover the total cost of such repair, replacement or reconstruction, the Developer shall reimburse the City for any excess costs incurred.

- c. The security furnished for the Developer's obligation to construct and install the Improvements described herein shall not be reduced below ten percent (10%) unless and until a warranty bond is posted for the warranty period.

4. TIME EXTENSIONS

- a. Upon a showing of the Developer of good cause, the date of commencement of work on the Improvements, or the duration of the Completion Period, may be extended by the City Engineer, with the written concurrence of the City Manager. As used herein, "Good Cause" may include, without limitation, delay resulting from an act of the City, acts of God or force majeure; and strikes, boycotts or similar job actions by employees or labor organizations which prevent the conduct of the work.
- b. A time extension may be granted without notice to any surety or sureties of the Developer and shall not affect the validity of this Agreement nor release the surety or sureties on any bond given as an improvement security pursuant to this Agreement.
- c. As a condition of any time extension provided for herein, the City Engineer, with the written concurrence of the City Manager, may require the Developer to furnish new or modified improvement security guaranteeing performance of this Agreement, as extended, in an increased amount necessary to compensate for any projected increase in the Estimated Total Cost of Improvements, as determined by the City Engineer.

5. IMPROVEMENT SECURITY

- a. Prior to the City's execution of this Agreement, Developer shall provide as security to the City an amount equal to one hundred fifty percent (150%) of the Estimated Total cost of the Improvements, Grading and Monumentation as set forth in Schedule A and in accordance with established City policy. With this security, the form of which shall be subject to City's prior approval, the Developer assures faithful performance under this agreement and guarantees the Improvements for one (1) year after the completion and acceptance of the last of such Improvements against any defective workmanship or material or any unsatisfactory performance pursuant to Section 3 hereof.
- b. Modifications of the Improvement Plans and related specifications, and modification of the Improvements, not exceeding ten percent (10%) of the original Estimated Total Cost of Improvements, shall not relieve or release any improvement security furnished by Developer pursuant to this Agreement. If any such modifications exceed ten percent (10%) of the Estimated Total Cost of the Improvements, Developer shall furnish additional improvement security for performance and guarantee, and for payment, as required by subparagraph A above, for one hundred fifty percent (150%) of the revised

Estimated Total Cost of the Improvements.

6. REDUCTION OR RELEASE OF IMPROVEMENT SECURITY

- a. Partial release or reductions in the Developer's improvement security may be authorized prior to the City's acceptance of all Improvements required hereunder, as provided in this section.
- b. Upon acceptance of all or any specified category of the Improvements, and upon request of the Developer, the improvement security may be reduced or released as follows:
 - i. Security for Performance and Guarantee: Security may be released incrementally following the completion and documentation of the completion of work and approval by the City Engineer. Securities will be released incrementally in conformance with Schedule A and only upon completion of all improvements in a related category of Schedule A. Unless the Developer submits a warranty bond (where applicable) or additional security in an amount equal to ten percent (10%) of the Estimated Total Cost of the Improvements, security shall not be reduced or released in an amount greater than ninety percent (90%) of the total security amount thereof prior to the expiration of the one (1) year guarantee and warranty period specified in Section 3.A. nor until any claims filed during the one (1) year warranty period have been settled.
- c. If Developer's obligations relating to any Improvements, such as the water system or sewer system, are subject to the approval of another governmental agency, the City shall not release the improvement security therefor until the obligations are performed to the satisfaction of such other governmental agency. Such agency shall have two (2) months after Developer's performance of the obligation to register its satisfaction or dissatisfaction. If at the end of that period it has not registered its satisfaction or dissatisfaction, it shall be conclusively deemed that the Developer's performance of the obligation was satisfactorily completed.

7. INDEMNIFICATION OF CITY BY DEVELOPER

- a. Neither the City, nor its officers, agents and employees, shall be liable or responsible for any accident, injury, loss, or damage to either property or person attributable to or arising out of the construction or installation of the Improvements. Developer shall indemnify, hold harmless and defend the City, its officers, agents and employees, from and against any and all losses, claims, costs, expenses, liabilities, damages, actions, causes of action and judgments, including reasonable attorneys' fees, arising out of or attributable to Developer's performance under this Agreement.
- b. Developer's obligations under this section are not conditioned or dependent upon the City, or its officers, agents and employees who prepared, supplied or reviewed any Improvement Plans or related specifications in connection with the Project Improvements, or has insurance or other indemnification covering any of these matters.

- c. Developer's obligation to indemnify, hold harmless and defend the City shall extend to injuries to persons and damages to or alleged taking of property resulting from the design or construction of the Project, and the Improvements required herein, and shall likewise extend to adjacent property owners asserting claims based upon the diversion of waters caused by the Developer's design or construction of public drainage systems, streets, and other public facilities or improvements. The City's acceptance of the Improvements shall not constitute an assumption by the City of any responsibility or liability for any damage or alleged taking of property referenced herein. City shall not be responsible or liable for the design or construction of the Project or the Improvements constructed or installed pursuant to the approved Improvement Plans or the Final Plat, unless the particular Improvement design was required by the City over the written objection of the Developer, which objection stated that the Improvement design was potentially dangerous or defective and set forth an alternative design.

8. OWNERSHIP OF IMPROVEMENTS

Ownership of all or any category of the Improvements constructed and installed by the Developer pursuant to this Agreement shall vest in the City (or other specified governmental agency) upon acceptance of Improvements by the City (or other specified governmental agency).

9. DEFAULT AND BREACH BY THE DEVELOPER AND REMEDIES OF THE CITY

- a. Upon the occurrence of any of the following events, the Developer shall be deemed to be in default under this Agreement:
 - i. Subject to any time extensions granted in accordance with Section 4, failure to commence construction and installation of the Improvements by the commencement date set forth herein;
 - ii. Failure to correct or cure any defect in the Improvements during the one (1) year guarantee and warranty period as required in Section 3.A.;
 - iii. Subject to any time extensions granted in accordance with Section 4, failure to perform substantial construction work, after commencement of work on the Improvements, for a period of thirty (30) days after written notice from the City;
 - iv. Insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, whether voluntary or involuntary, and such is not cured or discharged within a period of thirty (30) days;
 - v. Commencement of a foreclosure action against the Project or any portion thereof, or any conveyance by the developer in lieu or in avoidance of foreclosure; or
 - vi. Failure to perform any other obligations in accordance with the terms and provisions

of this Agreement within thirty (30) days after written notice from the City.

- b. City reserves to itself all remedies available to it at law or in equity for any breach of Developer's obligations under this Agreement. City shall have the right, without limitation of other rights or remedies, to draw upon or utilize any improvement security furnished hereunder to mitigate City's damages in the event of Developer's default.
- c. Developer acknowledges that the Estimated Total Costs and improvement security amounts set forth herein may not reflect the actual cost of construction or installation of the Improvements, and consequently, City's damages for Developer's default shall be measured by the cost of completing the required Improvements. If the damages incurred by the City in taking over the completing of the Improvements exceeds the principal amount of the improvement security, then the Developer shall reimburse the City in the amount of such excess damages.
- d. City may, without liability for doing so, take possession of, and utilize in completing the Improvements, such materials, appliances, plant and other property belonging to Developer as may be on the site of the work and necessary for the performance of the work. Developer hereby consents to entry by the City and its forces, including contractors, upon any real property in the Project owned by the Developer or by any assignee of this Agreement, in the event the City elects to maintain or complete the work on the Improvements following Developer's default.
- e. Developer acknowledges and agrees that, upon approval of the Final Plat, City will confer substantial rights upon the Developer, including the right to sell, lease or finance lots within the Subdivision, and that such approval constitutes the final act necessary to permit the division of land within the Subdivision. As a result, City will be damaged to the extent of the cost of construction or installation of the Improvements upon Developer's failure to perform its obligations under this Agreement. Developer further acknowledges that any determination as to whether a reversion to acreage or rescission of approval of the Final Plat constitutes an adequate or necessary remedy for Developer's default shall be within the sole discretion of the City.
- f. The City's failure to take an enforcement action with respect to a default, or to declare a default or breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of the Developer.
- g. If City sues to compel Developer's performance of this Agreement, or to recover damages or costs incurred in completing or maintaining the work on the Improvements, Developer agrees to pay all attorneys' fees and other costs and expenses of litigation incurred by the City in connection therewith, even if the Developer subsequently resumes and completes the work.

10. RELATIONSHIP OF THE PARTIES

Neither Developer, nor any of the Developer's contractors, employees or agents, are or shall be

deemed to be agents of the City in connection with the performance of Developer's obligations under this Agreement.

11. ASSIGNMENT

- a. Developer shall not assign this Agreement without the prior written consent of the City. Any attempted or purported assignment in violation of this subparagraph a. shall be null and void and shall have no force or effect.
- b. The sale or other disposition of the Subdivision shall not relieve Developer of its obligations hereunder. If Developer intends to sell the Project, or any portion thereof, to any other person or entity, the Developer may request a novation of this Agreement and substitution of improvement security. Upon the City's approval of the novation and substitution of improvement security, the Developer may request a release or reduction of the improvement security furnished pursuant to this Agreement.

12. NOTICES

- a. All notices required or provided for in this agreement shall be in writing and delivered in person or by mail, postage prepaid, and addressed as follows:

If to the City:	Richland City Engineer 625 Swift Blvd. MS-26 Richland, WA 99352
-----------------	---

If to the Developer:	Pahlisch Homes, Inc. 210 SE Wilson Ave. Bend, OR 97702
----------------------	--

- b. Notice shall be effective on the date that it is delivered in person, or, if mailed, on the date of deposit in the United States mail.

13. ENTIRE AGREEMENT

This agreement constitutes the entire Agreement of the parties with respect to its subject matter. All modifications, amendments, or waiver of any terms of this Agreement shall be in writing and signed by the duly authorized representatives of the parties. In the case of the City, the duly authorized representative, unless otherwise specified herein, shall be the City Engineer.

14. SEVERABILITY

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

15. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Washington.

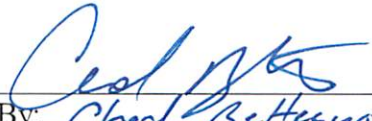
16. EFFECTIVE DATE OF THE AGREEMENT

This Agreement shall be and become effective as of the date of recordation of the Final Plat for Westcliffe Heights Phase 3, and shall remain in effect until expiration of the one (1) year warranty found in Section 3; provided, however, that Section 7 shall survive expiration of this Agreement.

[Signature pages to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, thereto duly authorized, as of the dates set forth below their respective signatures.

DEVELOPER – Chad Bettesworth


By: Chad Bettesworth
Its: Director CD
Date: 4/27/21

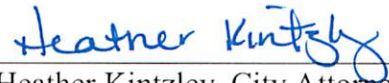
CITY OF RICHLAND


Jon Amundson, Interim City Manager

Attest:


Jennifer Rogers, City Clerk

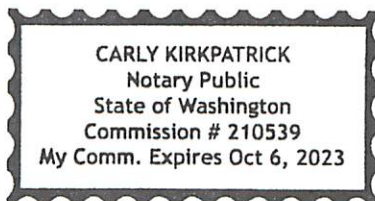
Approved as to Form:


Heather Kintzley, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF BENTON)

I, the undersigned, a notary public in and for the State and County aforesaid, do hereby certify that Chad Bettesworth, Director of L.D. of **Pahlisch Homes, Inc.**, known to me to be the same person whose name is subscribed to the foregoing **Security and Improvement Agreement**, appeared before me this day in person and acknowledged that, pursuant to her authority, she signed the said Agreement as his/her free and voluntary act on behalf of **Pahlisch Homes, Inc.** for the uses and purposes therein stated.

Given under my hand and seal this 27th day of April, 2021.



Carly Kirkpatrick
Notary Public
Residing at: Kennewick, WA
My commission expires Oct 6, 2023

STATE OF WASHINGTON)
) ss.
COUNTY OF BENTON)

I, the undersigned, a notary public in and for the State and County aforesaid, do hereby certify that **Jon Amundson, Richland Interim City Manager**, known to me to be the same person whose name is subscribed to the foregoing **Security and Improvement Agreement**, appeared before me this day in person and acknowledged that, pursuant to her authority, she signed the said Agreement as her free and voluntary act on behalf of the City of Richland for the uses and purposes therein stated.

Given under my hand and seal this 14th day of May, 2021.



Toni Sue Clark
Notary Public
Residing at: Kennewick
My commission expires 09/29/2021

Schedule A

SCHEDULE A

WORK TO BE COMPLETED PRIOR TO CITY APPROVAL OF FINAL PLAT				
Street subgrade and base rock placed & compacted to grade				
Property pins placed around boundary of plat, including back yard corners				
Signed third party easements				
Building lots graded per approved grading plan				
WORK TO BE COMPLETED PRIOR TO BUILDING PERMIT ISSUANCE				
ENGINEERS ESTIMATE - WCH P3 (SCOPE LEFT TO COMPLETE AS OF 3/9/2021)				\$ 837,256.79
TYPE OF WORK	QUANTITY	UNITS	COST PER UNIT	VALUE
Erosion	1	LS	\$ 5,600.00	\$ 5,600.00
Demo	1	LS	\$ 4,985.00	\$ 4,985.00
Site Work	1	LS	\$ 643,324.85	\$ 643,324.85
Water Zone 4	1	LS	\$ 8,957.60	\$ 8,957.60
Water Zone 5	1	LS	\$ 54,221.89	\$ 54,221.89
Sewer	1	LS	\$ 18,935.50	\$ 18,935.50
Storm	1	LS	\$ 68,782.30	\$ 68,782.30
Irrigation	1	LS	\$ 9,500.00	\$ 9,500.00
Tax	1	LS	\$ 22,949.65	\$ 22,949.65
ENGINEERS ESTIMATE - WCH LIFT STATION				\$ 596,026.11
TYPE OF WORK	QUANTITY	UNITS	COST PER UNIT	VALUE
Valve Vault	1	LS	\$ 41,514.00	\$ 41,514.00
Site Electrical	1	LS	\$ 158,569.60	\$ 158,569.60
Option - Dura Hoist Lift System	1	LS	\$ 5,895.18	\$ 5,895.18
Piping Between Structures	1	LS	\$ 15,086.12	\$ 15,086.12
Site Work	1	LS	\$ 36,686.69	\$ 36,686.69
Wet Well	1	LS	\$ 6,403.40	\$ 6,403.40
Storm	1	LS	\$ 284,672.00	\$ 284,672.00
Tax	1	LS	\$ 47,199.12	\$ 47,199.12
WORK TO BE COMPLETED PRIOR TO RELEASE OF SECURITY FUNDS				
TYPE OF WORK	QUANTITY	UNITS	COST PER UNIT	VALUE
Punchlist Items	1	LS	\$ 5,000.00	\$ 5,000.00
Surveyor Asbuilt Data	1	LS	\$ 1,500.00	\$ 1,500.00
Asbuilt Record Drawings	1	LS	\$ 1,000.00	\$ 1,000.00
Total Value (All sections)				\$ 1,440,782.90
Total value X 150%				\$ 2,161,174.35



1623 Terminal Drive ▪ PO Box 922 ▪ Richland, WA 99352 ▪ 509-946-1581 ▪
www.spinkeng.com

TRANSMITTAL

DATE: March 11, 2021

TO: Jason Reathaford/Pamela Mattheus
City of Richland Public Works

JOB#: 18-118

FROM: Steve Spink

PROJECT: Westcliffe Heights Phase 3
Security Improvement
Agreement

MESSAGE:

The attached proposal dated March 9, 2021, provided by Mahaffey Enterprises, Inc., is representative of remaining construction costs to complete Phase 3 of Westcliffe Heights. Total remaining construction costs are estimated to be \$837,253.79, including taxes.

Industrial
Commercial
Residential
Site & Utilities
Road Construction
Mass Excavation
Water & Sewer & Storm



1213 S Clodfelter Rd
Kennewick, WA 99338
Tel: 509-627-4593
Fax: 509-627-0476

office@mahaffeyinc.com
LIC: MAHAFFEI179P0

DOZERS * LOADERS * BACKHOES * GRADERS * DUMP TRUCKS * SCRAPERS

Customer Name: Mark Bauder / Pahlisch Homes
Email Address: chadb@pahlisch.com
Date: 03/09/21

Project Name: Westcliffe Heights PH 03 Left over
Site Location: Westcliffe - Richland, WA
POC: Mark / Chad / Justin

Name	Descript Qty	Units	Cost Each	Price Total
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(0413) EROSION

(P3) Erosion: Construction Ent	1 EA	600	\$600.00
(P3) Erosion: Dust Control	1 EA	5000	\$5,000.00

EROSION SUB TOTAL

\$5,600.00

tax

\$498.80

DEMO

(P3) Demo: Sawcut	150 FT	3.5	\$525.00
(P3) Demo: Asphalt	1360 SQ FT	2	\$2,720.00
(P3) Demo: 12" Culvert	145 FT	12	\$1,740.00

DEMO SUB TOTAL

\$4,985.00

tax

\$390.79

(0405) SITE WORK

(P3) Site: Mob	1 LS	4500	\$4,500.00
(P3) Site: Roadway HMA	1 LS	165429	\$165,429.00
(P3) Site: Roadway Rock	1 LS	81182.75	\$81,182.75
(P3) Site: Roadway FG dirt Sub Grade	143890 SQ FT	0.27	\$38,850.30
(P3) Site: Curb / Gutter con. / rock / SG	9260 FT	11.2	\$103,712.00
(P3) Site: Sidewalk - con. / rock / SG	7053.92 SQ FT	4.59	\$32,377.49
(P3) Site: ADAs	46 EA	1164.8	\$53,580.80
(P3) Site: HMA Ramp Prep	1 EA	1500	\$1,500.00
(P3) Site: HMA pond RD - behind driveway	60 SQ FT	20	\$1,200.00
(P3) Site: Driveway Approach - Pond	2 EA	1500	\$3,000.00

(P3) Site: Pond Rd Rock	3765 SQ FT	0.75	\$2,823.75
(P3) Site: Monuments	15 EA	500	\$7,500.00
(P3) Site: MH Adjustments	28 EA	550	\$15,400.00
(P3) Site: VC Adjustments	98 EA	450	\$44,100.00
(P3) Site: 6' Fence w/ 2 gates	1486 FT	29.6	\$43,985.60
(MOR) Site: 20' W Seva RD - 2" TC / SG prep	28780 SQ FT	0.45	\$12,951.00
(P3) Site: Signnage	1 EA	16232.16	\$16,232.16
(P3) Site: Mail Boxes	3 EA	5000	\$15,000.00

SITE WORK SUB TOTAL

\$643,324.85

tax

\$11,947.80

(0425) WATER ZONE 4

(MOR) Wat Z4: Blow Off	2 EA	2228.8	\$4,457.60
(MOR) Wat Z4: Testing	1 EA	4500	\$4,500.00

WATER Z 4 SUB TOTAL

\$8,957.60

tax

\$770.36

(0425) WATER ZONE 5

(MOR) Wat Z5: 8" Main Line (DI)	912.5 FT	29.68	\$27,083.00
(MOR) Wat Z5: 6" Line (DI)	28 FT	24.31	\$680.68
(MOR) Wat Z5: 4" Line (DI)	35 FT	31.73	\$1,110.55
(MOR) Wat Z5: Tie In Exist	1 EA	500	\$500.00
(MOR) Wat Z5: 8x8 Tee	2 EA	684.14	\$1,368.28
(MOR) Wat Z5: Blow Off	2 EA	2284.6	\$4,569.20
(MOR) Wat Z5: 8" GV	4 EA	1900	\$7,600.00
(MOR) Wat Z5: 8" 22.5	3 EA	184.88	\$554.64
(MOR) Wat Z5: 8" MJ 11.25	3 EA	168.06	\$504.18
(MOR) Wat Z5: 8x4 reducer	2 EA	289.68	\$579.36
(MOR) Wat Z5: 4" GV	1 EA	900	\$900.00
(MOR) Wat Z5: Fire Hyd Assembly	1 EA	5500	\$5,500.00
(MOR) Wat Z5: Testing	1 EA	2500	\$2,500.00
(MOR) Wat Z5: Consumables	0.5 EA	1544	\$772.00

WATER ZONE 5 SUB TOTAL

\$54,221.89

tax

\$4,663.08

(0423) SEWER

(LEG) Sewer: 4" Force Main (Tie In)	1 EA	500	\$500.00
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(LEG) Sewer: Testing	1 EA	18432.5	\$18,432.50
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SEWER SUB TOTAL			\$18,932.50
tax			\$1,628.20

(0427) STORM

(LEG) Storm: 48" MH	1 EA	2500	\$2,500.00
(P3) Storm: 72" Sediment MH w/ 18" cross	4 EA	7000	\$28,000.00
(LEG) Storm: 12" Cross inside MH	1 EA	1600	\$1,600.00
(P3) Storm: 48" CBMH	1 EA	2500	\$2,500.00
(P3) Storm: 24" Catch Basins	1 EA	1000	\$1,000.00
(P3) Storm: 18" Line	250 FT	38.2	\$9,550.00
(P3) Storm: 12" Line	30 FT	20.31	\$609.30
(P3) Storm: Rip- Rap	3 EA	750	\$2,250.00
(P3) Storm: 18" Trash Grate	2 EA	950	\$1,900.00
(P3) Storm: 12" Trash Grate	1 EA	750	\$750.00
(LEG) Storm: Testing	1 EA	16623	\$16,623.00
(LEG) Storm: Rock for structures	6 EA	250	\$1,500.00

STORM SUB TOTAL			\$68,782.30
tax			\$2,233.62

(0459) IRRIGATION

(LEG) IRR: ARV	1 EA	4500	\$4,500.00
(LEG) IRR: Testing	1 EA	5000	\$5,000.00

IRRIGATION SUB TOTAL			\$9,500.00
tax			\$817.00

GRAND TOTAL			\$814,304.14
(0599) tax			\$22,949.65
GRAND TOTAL w/ TAX			\$837,253.79

*Note- If Mahaffey is awarded this contract. The estimate above will be included as part of the contract documents to identify specific inclusions and exclusions.

Please note—This proposal/bid **does not** include any fees, permits, bonds, staking, or surveying. It **does not** include any compaction testing. It **does not** include any dust control after the completion of our portion of this project. It **does not** include any meters or water costs associated with dust control or with any other portion of this project. It **does not** include any saw cutting or other cutting of any asphalt or concrete materials. It **does not** include the removal of asbestos or other hazardous materials. It **does not** include any patching or paving. It **does not** include any soil stabilization, hydro-seeding, mulching, landscape restoration or repair, de-watering, or bedrock excavation. **The items above are included only if specifically listed in the bid. This proposal/bid is only valid for 30 days.**



Jeremy Mahaffey

Estimator

3/9/2021

Signature

Print Name

Title

Date

ACCEPTANCE OF PROPOSAL: The undersigned authorizes commencement of work as specified above. Payments are billed through the end of the month's work and are to be paid by the 10th of the following month. If payment is not received when due, interest at the rate of 18% per annum will accrue on the unpaid balance. In the event of litigation or arbitration between the parties with respect to this contract, the prevailing party shall be entitled to recover reasonable attorneys' fees together with the reasonable and customary costs of suit or arbitration, which sum shall be included in any judgment or arbitration award. If any discrepancies in the scope of work occur both parties agree to settlement through arbitration if necessary

Signature

Print Name

Title

Date



1623 Terminal Drive ▪ PO Box 922 ▪ Richland, WA 99352 ▪ 509-946-1581 ▪
www.spinkeng.com

TRANSMITTAL

DATE: March 11, 2021

TO: Jason Reathaford/Pamela Mattheus
City of Richland Public Works

JOB#: 18-118

FROM: Steve Spink

PROJECT: Westcliffe Heights Sewer Lift
Station
Security Improvement
Agreement

MESSAGE:

The attached proposal dated March 9, 2021, provided by Mahaffey Enterprises, Inc., is representative of construction costs to construct the Westcliffe Heights sewer lift station. Total construction costs are estimated to be \$596,026.11, including taxes.

Industrial
Commercial
Residential
Site & Utilities
Road Construction
Mass Excavation
Water & Sewer & Storm



1213 S Clodfelter Rd
Kennewick, WA 99338
Tel: 509-627-4593
Fax: 509-627-0476

office@mahaffeyinc.com
LIC: MAHAFFEI179P0

DOZERS * LOADERS * BACKHOES * GRADERS * DUMP TRUCKS * SCRAPERS

Customer Name: Mark Bauder / Pahlisch Homes
Email Address: chadb@pahlisch.com
Date: 03/09/21

Project Name: WC Lift
Site Location: Westcliffe - Richland, WA
POC: Mark / Chad / Justin

Name	Descript Qty	Units	Cost Each	Price Total
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Valve Vault

Valve Vault

Concrete Structure	1 EA	\$0.00
Core / Seal	4 EA	\$0.00
Mechanical Piping	1 LS	\$0.00
Testing	1 LS	\$0.00

Valve Vault SUB TOTAL	\$41,514.00
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Site Electrical - Price by Sub Contractor

Site Electrical

V11 Transformer	1 EA
4" Sch 40	20 LF
4" 90 Sweeps	2 EA
Elec. Trenching	173 LF
Telemetry Ant.	1 LS
Pump wire Up	1 LS
Back up generator	1 EA
Sunshade	1 EA

Site Electrical Sub Total	\$158,569.60
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Options

Options

Dura Hoist Lift System	1 EA	\$0.00
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Options Sub total

\$5,895.18

Piping Between Structures

LEGACY - WATER ZONE 4

Valve Vault Drain	42 FT	\$0.00
4" Force Main	137 FT	\$0.00
Romac cplgs	6 EA	\$0.00
4" 45	5 EA	\$0.00
4" 90	1 EA	\$0.00
4" Tee	1 EA	\$0.00
4" MJ G.V. w/ V.B.	1 EA	\$0.00
Consumables	1 EA	\$0.00
Testing	1 EA	\$0.00

LEGACY - WATER ZONE 4 Sub total

\$15,086.12

Site Work

Site Work

Mob	1 LS	\$0.00
Fine Grade dirt Sub Grade	3800 SQFT	\$0.00
20' Wide Drive (Asphalt)	2 EA	\$0.00
4" TC	2890 SQFT	\$0.00
4" Landscape Rock	335 EA	\$0.00
Site Concrete	1 LS	\$0.00
Fence	1 LS	\$0.00

Site Work SUB TOTAL

\$36,686.69

Water- City to provide / set meter

Water

1" Service Assembly	1 EA	\$0.00
1" RPBA	1 EA	\$0.00
1" Yard Hydrant	1 EA	\$0.00
1" Make Up Line	20 LF	\$0.00
2" G.V. w/ vanstones	1 EA	\$0.00

Site Work SUB TOTAL

\$6,403.40

Wet Well

Wet Well

Conc. Structure	1 EA	\$0.00
Core & Seal	8 FT	\$0.00
Pump Assembly	2 EA	\$0.00
Control Panel	1 EA	\$0.00
Start Up	1 FT	\$0.00
Connection Parts	1 EA	\$0.00
Fab parts / Fillet / Retrival	1 FT	\$0.00
Spare Pump / impeller / rebuild Kit	1 EA	\$0.00

Wet Well SUB TOTAL	\$284,672.00
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SUB TOTAL	\$548,826.99
tax	\$47,199.12
GRAND TOTAL W/ Tax	\$596,026.11

Bid is based off Prints Dated 02/17/21

Excludes: Cable Chase way to explosion proof panel

***Note- If Mahaffey is awarded this contract. The estimate above will be included as part of the contract documents to identify specific inclusions and exclusions.**

Please note—This proposal/bid **does not** include any fees, permits, bonds, staking, or surveying. It **does not** include any compaction testing. It **does not** include any dust control after the completion of our portion of this project. It **does not** include any meters or water costs associated with dust control or with any other portion of this project. It **does not** include any saw cutting or other cutting of any asphalt or concrete materials. It **does not** include the removal of asbestos or other hazardous materials. It **does not** include any patching or paving. It **does not** include any soil stabilization, hydro-seeding, mulching, landscape restoration or repair, de-watering, or bedrock excavation. **The items above are included only if specifically listed in the bid. This proposal/bid is only valid for 30 days.**



Jeremy Mahaffey

Estimator

3/9/2021

Signature

Print Name

Title

Date

ACCEPTANCE OF PROPOSAL: The undersigned authorizes commencement of work as specified above. Payments are billed through the end of the month's work and are to be paid by the 10th of the following month. If payment is not received when due, interest at the rate of 18% per annum will accrue on the unpaid balance. In the event of litigation or arbitration between the parties with respect to this contract, the prevailing party shall be entitled to recover reasonable attorneys' fees together with the reasonable and customary costs of suit or arbitration, which sum shall be included in any judgment or arbitration award. If any discrepancies in the scope of work occur both parties agree to settlement through arbitration if necessary

Signature	Print Name	Title	Date
-----------	------------	-------	------

Justin Evans

From: joe@mahaffeyinc.com
Sent: Monday, May 3, 2021 10:05 AM
To: Justin Evans
Subject: Westcliffe Heights Lift Station

CAUTION: Outside email, potential spam

Justin,

Here is the preliminary Schedule.

5-7 / Wet well Installation

5-10 / 5-21 / Submittal submission and approval

5-24 / 6-28 / Site work, underground water and sewer, valve vault, sunshade, antenna footing, fencing, set pumps and rail, pour slabs

6-28 / 7-31 / Site electrical underground, explosion proof panel, electrical panels, generator set

8-2 / 8-13 / Pump start up and telemetry communication, Punchlist

Let me know if this works,

Joe Ennis / Mahaffey Ent.
Vice President
Office: (509) 627-4593 xt. 202
Cell: (509) 727-2372





PHILADELPHIA
INSURANCE COMPANIES

A Member of the Tokio Marine Group

Subdivision Bond
Faithful Performance

Bond No. PB00573800134
Premium \$21,612.00

KNOW ALL MEN BY THESE PRESENTS: That Pahlisch Homes, Inc. as Principal, and Philadelphia Indemnity Insurance Company, a corporation organized and existing under the laws of the State of Pennsylvania and authorized to transact surety business in the State of Washington, as Surety are held and firmly bound unto City of Richland in the sum of Two Million, One Hundred Sixty-One Thousand, One Hundred Seventy-Four and 35/100 Dollars (\$2,161,174.35), for the payment whereof, well and truly to be made, said Principal and Surety bind themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS the above Named Principal has entered into an agreement, dated _____, 2021, with the City of Richland to do and perform the following work, to wit:

Westcliffe Heights Phase 3

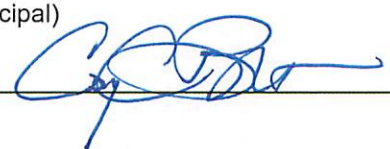
NOW, THEREFORE, if the above-bounden Principal shall well and truly perform the work referred to in such agreement, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney in Fact at Portland, Oregon this 28th day of April, 2021.

Pahlisch Homes, Inc.

(Principal)

(Seal)

By: 

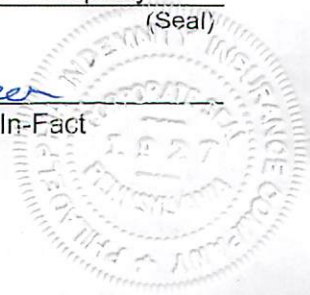
Philadelphia Indemnity Insurance Company

(Surety)

(Seal)

By: 

Lyndsay C. Warren, Attorney-In-Fact



PHILADELPHIA INDEMNITY INSURANCE COMPANY

One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That PHILADELPHIA INDEMNITY INSURANCE COMPANY (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint James S. Ewald, Jenifer McCormick, Sherri Lund-Fery, Lyndsay C. Warren and Tina DeHut of Elliott Powell Baden & Baker Inc., its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed \$50,000,000.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November, 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

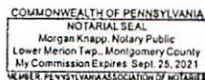
IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 27TH DAY OF OCTOBER, 2017.



(Seal)

Robert D. O'Leary Jr., President & CEO
Philadelphia Indemnity Insurance Company

On this 27th day of October, 2017, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the PHILADELPHIA INDEMNITY INSURANCE COMPANY; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.



(Notary Seal)

Notary Public:

residing at:

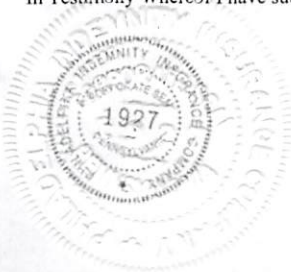
Bala Cynwyd, PA

My commission expires:

September 25, 2021

I, Edward Sayago, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 27th day of October, 2017 are true and correct and are still in full force and effect. I do further certify that Robert D. O'Leary Jr., who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 28th day of April, 20 21.



Edward Sayago, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

Vicinity Map

Item: Final Plat - Westcliffe Heights Phase 3
Applicant: Bauder Land & Development Inc.
File #: FP2021-105





COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Resolutions - Adoption

Core Focus Area 3 - Increase Economic Vitality

Subject:

Resolution No. 79-21, Setting a Meeting Date to Review a Proposed Annexation of Approximately 300.1 Acres in North Richland (USDOE)

Department:
Development Services

Ordinance/Resolution Number:
79-21

Document Type:
Resolution

Recommended Motion:

Adopt Resolution No. 79-21, setting the date of July 20, 2021 to meet with the proponent of the annexation of approximately 300.1 acres in north Richland.

Summary:

PNNL, on behalf of The Department of Energy, has requested that approximately 300.1 acres of land located north of Horn Rapids Road, east of Stevens Drive, west of the Columbia River, and south of the "300 Area" be annexed into Richland city limits.

State law requires that, upon receiving a request for annexation, City Council set a meeting date with the applicants through adoption of a formal resolution. Resolution No. 79-21 establishes Tuesday, July 20, 2021 as the official date for Richland City Council to meet with the annexation proponents to discuss the merits of the application.

Staff recommends adoption of Resolution No. 79-21.

Fiscal Impact: None.

Attachments:

1. Resolution No. 79-21
2. Application Materials

RESOLUTION NO. 79-21

A RESOLUTION of the City of Richland setting a meeting date to review a proposed annexation of approximately 300.1 acres of land owned by the United States Department of Energy described as Tax Parcel Nos. 111080000000000 and 114081000001003 and generally located north of the intersection of Horn Rapids Road and George Washington Way, east of Stevens Drive, west of the Columbia River with the northern boundary being the south fence line of the "300 Area" in Sections 10, 11, 14 & 15, Township 10 North, Range 28 East W.M., Benton County, Washington.

WHEREAS, the City received a written request for the annexation of approximately 300.1 acres of property owned by the United States Department of Energy; and

WHEREAS, Richland City Council was presented with the request at its regular meeting on July 6, 2021; and

WHEREAS, RCW 35.13.125 requires the legislative body to set a date for a meeting with the annexation petitioners.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the regular meeting date of **July 20, 2021** is hereby established as the date on which the Richland City Council will meet with the annexation petitioners.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 6th day of July, 2021.

Ryan Lukson, Mayor

Attest:

Approved as to form:

Jennifer Rogers, City Clerk

Heather Kintzley, City Attorney



902 Battelle Boulevard
P.O. Box 999, MSIN J2-33
Richland, WA 99352
(509) 372-4826
tracy.spooner@pnnl.gov
www.pnnl.gov

OUT-0172-2021

May 17, 2021

Mr. Mike Stevens
Planning Manager
City of Richland
625 Swift Boulevard, MS-35
Richland, WA 99352

Dear Mr. Stevens:

**CONTRACT NO. DE-AC05-76RL01830 – SUBMITTAL OF APPLICATION FOR
ANNEXATION FOR THE PACIFIC NORTHWEST NATIONAL LABORATORY NORTH
CAMPUS**

On behalf of the US Department of Energy (DOE) Office of Science, Pacific Northwest Site Office, please accept this letter as a formal request for the City of Richland to consider annexation of 300 acres of land owned by DOE. Please find the Application for Annexation and Exhibits attached.

The property is located north of the Pacific Northwest National Laboratory campus, is within the City of Richland's urban growth area, and consists of two parcels identified as follows:

- 1) 111080000000000 – 85.6 Acres (*portion of primary parcel per Record Survey 4768*)
- 2) 114081000001003 – 214.5 Acres (*per Record Survey 3673*)

The specific acreage and legal descriptions are found on the attached record of surveys from Rogers Surveying, Inc., exhibits 2A & 2B.

If you have any questions or comments, please contact me at (509) 372-4826 or Aaron Lambert, Facilities and Infrastructure Strategic Planner, at (509) 371-7038 or email aaron.lambert@pnnl.gov.

Sincerely,

Tracy Spooner Digitally signed by Tracy Spooner
Date: 2021.05.17 20:15:11 -07'00'

Tracy L. Spooner
Division Director
Campus Development



OUT-0172-2021

Mr. Mike Stevens

May 17, 2021

Page 2

TLS/ATL/tpr/ral

Attachment (s): as stated

cc: Ryan Kilbury, PNSO
Dana M. Storms, PNNL



Application for Annexation

Note: A Pre-Application meeting is required prior to submittal of an application.

PROPERTY OWNER INFORMATION

☐ Contact Person

Owner: United States Department of Energy, Pacific Northwest Site Office - Office of Science

Address: P.O. Box 350, MS K9-42, Richland, WA 99352

Phone: (509) 372-4005

Email:

APPLICANT INFORMATION (if different)

☒ Contact Person

Company:

UBI# N/A

Contact: Ryan Kilbury, Business Division Director

Address:

Phone: (509) 372-4030

Email: Ryan.Kilbury@Science.doe.gov

DESCRIPTION OF REQUEST

The Department of Energy is seeking to annex approximately 300.1 acres of land found within two parcels on the north end of the PNNL Richland Campus. The land is in unincorporated Benton County and the City of Richland Urban Growth Area. The location of the undeveloped land is generally north of the intersection of Horn Rapids Rd. and George Washington Way, east of Stevens Drive, west of the Columbia River with the northern boundary being the south fence line of the "300 Area".

PROPERTY INFORMATION

Parcel #: A) 111080000000000 B) 114081000001003

Legal Description: See attached Record of Survey #'s 3673 & 4768

Current Comp. Plan: BRP & NOS

Requested Zoning: BRP & NOS

Size of Property: 300.1 Acres

Domestic Water Supply: ☒ City ☐ Private Well

Sewage Disposal: ☒ City ☐ Septic

Irrigation Source: ☒ City ☐ Private Well ☐ Columbia Irrig. District ☐ Kennewick Irrig. District ☐ BMID

APPLICATION MUST INCLUDE

1. Completed application and filing fee
2. A "Notice of Intent" form requesting annexation to the City of Richland
3. Full legal description of the proposed annexation area
4. A map showing all of the following: general vicinity of proposed annexation in relation to the City of Richland, the proposed boundaries of the annexation, and all public roads near the annexation area
5. Other information as determined by the Administrator

ANSWER QUESTIONS BELOW AS COMPLETELY AS POSSIBLE – USE ADDITIONAL SHEET(S) IF NECESSARY

Why are you requesting annexation into the City of Richland?

The intent of the annexation is so that the entirety of the land managed by the Department of Energy, Office of Science is located under the same local jurisdiction. Future development in this area is dependent on city services such as water, sewer and electrical, which is already provided by the city of Richland under a previous agreement. Incorporation into the City is consistent with the level of services already provide and future services such as Fire and Emergency.

What use, building or structure is intended for the property?

The planned use of the property is to support the future expansion of the PNNL Richland Campus with laboratory and research buildings and supporting facilities. The development will be similar to the development on other parts of the PNNL Richland campus to the south. The future development will be incremental and likely occur from the south to the north with phased infrastructure extensions.

What changes have occurred in the area that justify the requested annexation?

PNNL has entered into an agreement with the City of Richland to provide fire protection for the buildings north of Horn Rapids and the adjacent 300 area to the north of the campus which includes the subject area. This increase in city services aligns with the City's comprehensive plan to expand jurisdictional boundaries to the north. The provision of city fire response is consistent with existing city services such as water and sewer.

Are there any other properties in your neighborhood that could be part of your annexation request? If so, have you spoken to the owners about joining your annexation request?

The remaining property in the 300 Area is managed by a different office of the Department of Energy, the Office of Environmental Management (EM) and has no plans for future development.

I authorize employees and officials of the City of Richland the right to enter and remain on the property in question to determine whether a permit should be issued and whether special conditions should be placed on any issued permit. I have the legal authority to grant such access to the property in question.

I also acknowledge that if a permit is issued for land development activities, no terms of the permit can be violated without further approval by the permitting entity. I understand that the granting of a permit does not authorize anyone to violate in any way any federal, state, or local law/regulation pertaining to development activities associated with a permit.

I hereby certify under penalty of perjury under the laws of the State of Washington that the following is true and correct:

1. I have read and examined this permit application and have documented all applicable requirements on the submittals.
2. The information provided in this application contains no misstatement of fact.
3. I am the owner(s), the authorized agent(s) of the owner(s) of the above referenced property, or I am currently a licensed contractor or specialty contractor under Chapter 18.27 RCW or I am exempt from the requirements of the Chapter 18.27 RCW.
4. I understand this permit is subject to all other local, state, and federal regulations.

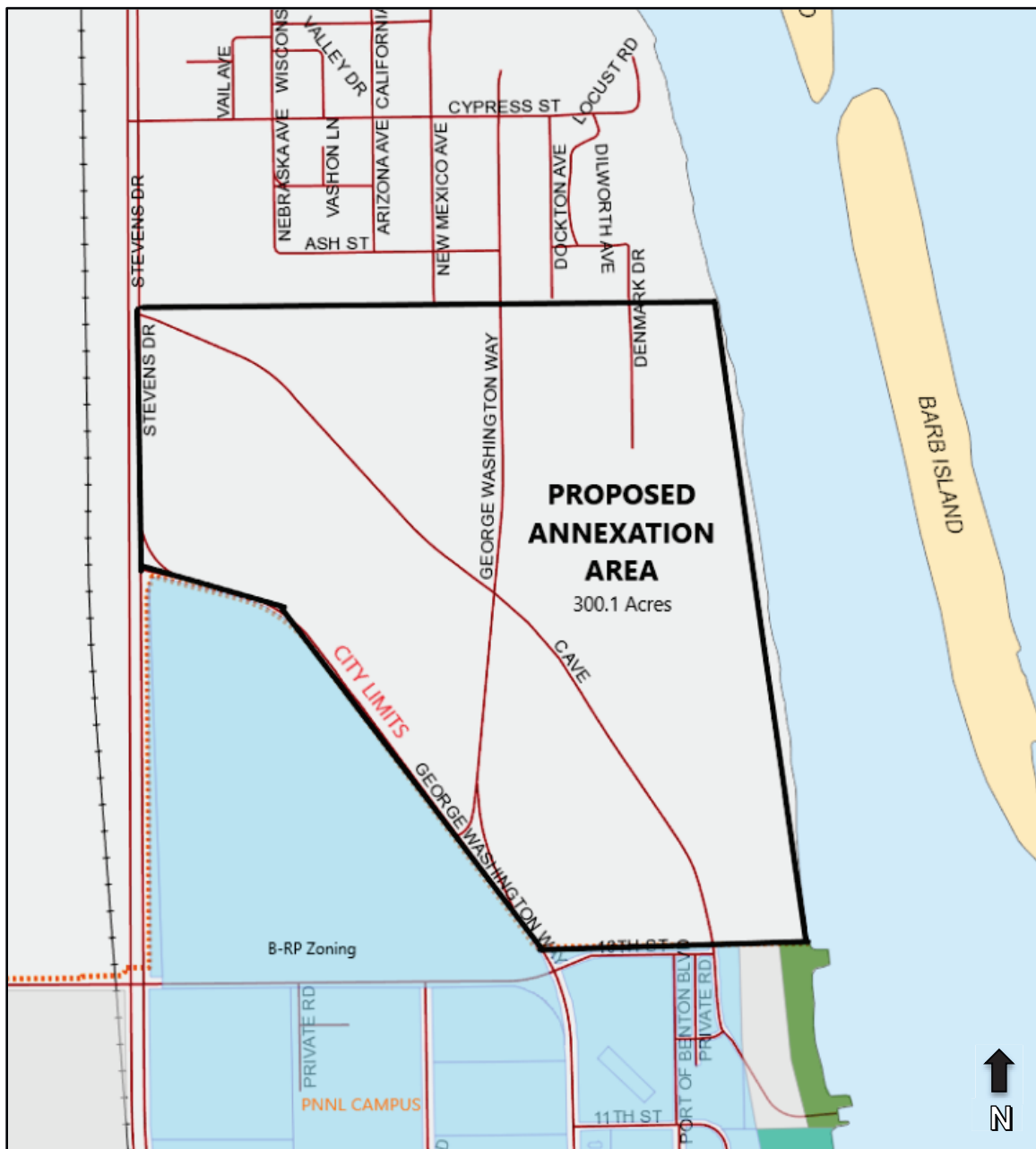
Note: This application will not be processed unless the above certification is endorsed by an authorized agent of the owner(s) of the property in question and/or the owner(s) themselves. If the City of Richland has reason to believe that erroneous information has been supplied by an authorized agent of the owner(s) of the property in question and/or by the owner(s) themselves, processing of the application may be suspended.

Applicant Printed Name: Ryan Kilbury

Applicant Signature: Ryan M. Kilbury Date 3/30/2021

2021 North Campus Annexation Request

EXHIBIT 1A – Overall Annexation Area



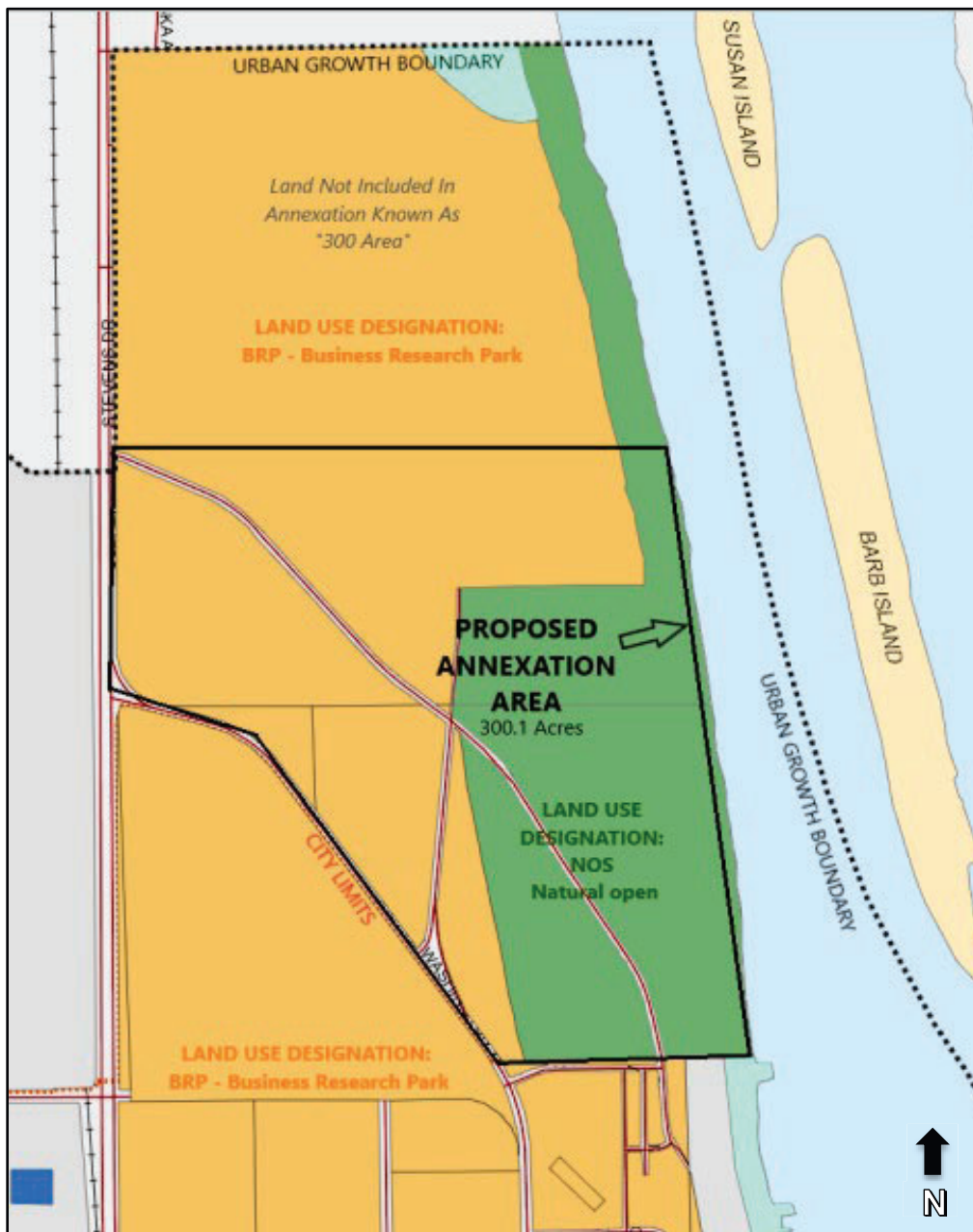
2021 North Campus Annexation Request

EXHIBIT 1B – Overall Annexation Area Aerial Photo



2021 North Campus Annexation Request

EXHIBIT 1C – Annexation Area Comprehensive Plan Designations

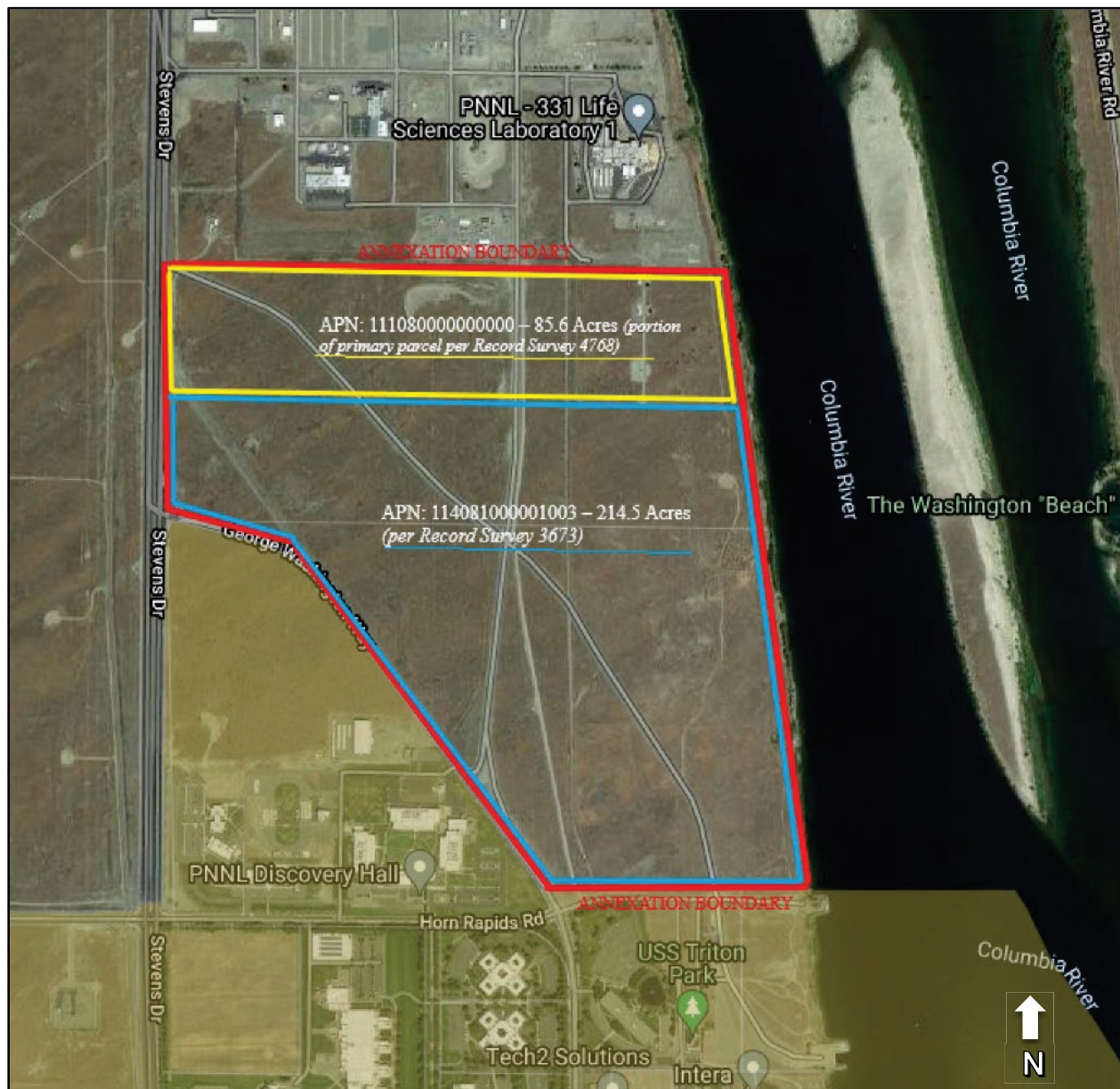




902 Battelle Boulevard
Richland, WA 99352

2021 North Campus Annexation Request

EXHIBIT 1D – Annexation Parcels, Aerial Photo



FOR BATTELLE MEMORIAL INSTITUTE
PORTIONS OF SECTIONS 10, 11, 14 & 15
TOWNSHIP 10 NORTH, RANGE 28 EAST, W.M.
BENTON COUNTY, WASHINGTON



DRN. 01	IXG	SCALE 1" = 300'	T. B. NO. NONE	SHEET
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			FILE: 19706.DWG	

FOR BATTELLE MEMORIAL INSTITUTE

BENTON COUNTY, WASHINGTON

PSE PARCEL

[illegible]HRT PARCEL

THOSE PORTIONS OF SECTIONS 14 AND 15, TOWNSHIP 10 NORTH, RANGE 28 EAST, OF THE WILLAMETTE MERIDIAN, BENTON COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

SURVEY REFERENCES
A.E.C. MAP OF THE "BATTLE TRACT" DATED 10-8-64, DRAWING SK-11-880 IN AUDITOR'S WARRANTY DEED FROM THE CITY OF RICHLAND TO BATTLEILLE RECORDED IN AUDITOR'S FILE NO. 537206 (BATTLEILLE TRACT)
QUIT CLAIM DEED FROM U.S.A. TO PORT OF BENIN RECORDED IN AUDITOR'S FILE NO. 531608 (PORT OF BENIN PROPERTY)
EXISTING QUIT CLAIM DEED FROM U.S.A. TO CITY OF RICHLAND RECORDED IN AUDITOR'S FILE NO. 531608 (PORT OF BENIN PROPERTY)
QUIT CLAIM DEED FROM U.S.A. TO PORT OF BENIN RECORDED IN AUDITOR'S FILE NO. 531608 (PORT OF BENIN PROPERTY)
ATOMIC ENERGY COMMISSION SECTION MAPS OF SECTIONS 14 AND 15 (UNRECORDED)
AUDITOR'S WARRANTY DEED FROM BATTLEILLE TO U.S.A., RECORDED IN AUDITOR'S FILE NO. 94-23027.

NOTES

1. BASIS OF BEARING FOR THIS SURVEY IS THE EAST LINE OF THE SOUTHWEST QUARTER, WASHINGTON (S. 01°40'00"E). ALL BEARINGS SHOWN HEREON ARE ORIO BEARINGS, REFERENCED TO THE WASHINGTON STATE PLANE COORDINATE SYSTEM, ZONE 12MA93.91. DATUM: ALL DISTANCES ARE TRUE ORIO MEASUREMENTS.
2. 0 = DENOTES SET 3/4" x 24" REBAR WITH YELLOW PLASTIC CAP STAMPED 101-05W 30440-1.
3. ● = DENOTES FOUND EXISTING PROPERTY CORNER AS NOTED.
4. ● = DENOTES FOUND U.S.C.O.E. "CAMP HANCOCK" (CH-) MONUMENTS AS REFERENCED IN EXISTING DEED RECORDS, UNRECORDED A.E.C. MAPS AND CITY OF RICHLAND MAPS. (SEE NARRATIVE, ABOVE)
5. (N) = MEASURED (P) = RECORDED (C) = COMPUTED
6. (A.E.C) = RECORD BEARING & DISTANCE PER A.E.C. PLAT OF SECTION 14.
7. THIS SURVEY WAS PERFORMED IN AUGUST, 2006 AND SUPERSEDES AND AMENDS RECORD SURVEY NO. 3553.
8. EQUIPMENT & PROCEDURES USED: THIS SURVEY WAS PERFORMED USING SURVEYING AND A TOPCON GTS-2205S ELECTRONIC TOTAL STATION.
9. ● = INDICATES EXISTING MONUMENT WELL
10. △ = INDICATES EXISTING U.S.C.A.G.S. BENCH MARK B-524. (DO NOT DESTROY)

SURVEYOR'S CERTIFICATION

1. GARY B. W. HARRIS, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF WASHINGTON, REG. #30440, HEREBY CERTIFY THAT THIS MAP CORRECTLY REPRESENTS A SURVEY CONDUCTED UNDER MY DIRECT SUPERVISION IN AUGUST 2006, IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT, CHAPTER 50, LAWS OF 1973, FILED FOR RECORD AT THE REQUESTOR PNNL (BATTELLE).

DATE 10/12/20



ROGERS
SURVEYING INC., P.S.
1466 COLUMBIA PARK TRAIL
RICHLAND, WA. 99352
PHONE (509) 783-4141
FAX: (509) 783-8394
WWW.ROGERSSURVING.COM

AUDITOR'S CERTIFICATION

FILED FOR RECORD THIS 18 DAY OF Oct, 2006 A.D., AT 47
MINUTES PAST 10:00 A. M. AND RECORDED IN VOLUME 1 OF SURVEY'S
PAGE 3673, AT THE REQUEST OF ROGERS SURVEYING.

Bobbie Wagner
BENTON COUNTY AUDITOR
Rep Clerk

RECORD SURVEY NUMBER XX10281XX01

REV: 09/13/06

BATTELLE PACIFIC NW DIVISION
19706

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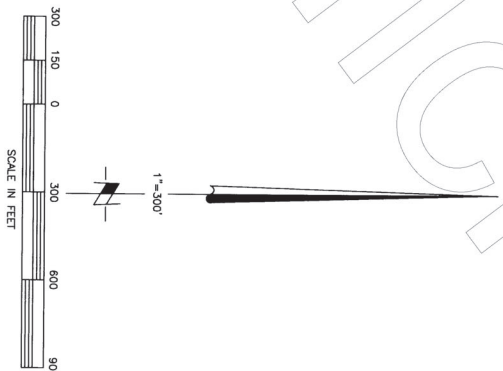
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NORTH RICHLAND, SECS 14 & 15 1.10N., R.26E

DRN. BY	TYG	SCALE 1" = 300'	F. B. NO.	NONE	SHEET 2
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APPROVED	DATE	19706	SHEET
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DATE	8-11-06	FILE:	19/06.DWG	OF	2
NAME	GBW				



4768

CLIENT	JOB
BATTELLE PACIFIC N.W. DIVISION	02516
PROJECT	
PNNL SITE	
LAND REASSIGNMENT	
DRAWN BY	
GBW	
SCALE 1" = 300'	
DATE 04/17/98	
F. B. NO. TSO-2	
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SHEET 1	
APPROVED ORG	



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Resolutions - Adoption

Core Focus Area 1 - Promote Financial Stability & Operational Effectiveness

Core Focus Area 4 - Manage our Natural Resources

Subject:

Resolution No. 80-21, Authorizing a Weatherwise Contractor Agreement with Silverbow Roofing, Inc. for Weatherwise Program Participation

Department:
Energy Services

Ordinance/Resolution Number:
80-21

Document Type:
Resolution

Recommended Motion:

Adopt Resolution 80-21, authorizing the City Manager to sign and execute an agreement with Silverbow Roofing, Inc. for participation in the City's Weatherwise Program.

Summary:

City-authorized contractors install energy efficiency improvements for Richland electric utility customers as part of the Energy Services Department's Weatherwise Program. Typical improvements include heat pumps, windows, doors, and building insulation.

Contractors go through a uniform process to qualify as a Weatherwise Program Authorized Contractor. This process includes: 1) satisfactorily completing an application; 2) meeting the licensing, insurance and bonding requirements; and 3) fee payment and program orientation compliance. The one-time fee is intended to cover program administrative costs. Approved contractors must continue to meet program requirements in order to remain on the program list.

The Weatherize Program Authorized Contractor List is on the City's website, and is provided to customers inquiring about energy efficiency measures. Staff makes no recommendations to customers about one contractor compared to another.

Silverbow Roofing, Inc. has met all application requirements. Staff recommends approval of Resolution No. 80-21 to add Silverbow Roofing Inc. as a Weatherwise Program Authorized Contractor.

Fiscal Impact: None.

Attachments:

1. Resolution No. 80-21
2. Proposed Agreement - Silverbow Roofing

RESOLUTION NO. 80-21

A RESOLUTION of the City of Richland authorizing a Weatherwise Contractor Agreement with Silverbow Roofing, Inc. for Weatherwise Program participation.

WHEREAS, the City of Richland operates an electric utility providing customers reliable service at the lowest reasonable cost through wholesale power purchases, efficient operations, and energy efficiency; and

WHEREAS, the City authorizes contractors to install energy conservation improvements for Richland electric customers under the energy efficiency Weatherwise Program; and

WHEREAS, the City specifies program procedures, minimum bonding and insurance requirements, electric heat and conservation improvement requirements, delisting procedures, and other program and regulatory requirements; and

WHEREAS, upon meeting all contractual requirements, and on the condition that licensing and bonding be maintained at all times during participation in the program, Silverbow Roofing, Inc. will be added as an authorized contractor for the City's Weatherwise Program.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the City Manager is authorized to sign and execute a Weatherwise Contractor Agreement with Silverbow Roofing, Inc. for participation in the City's Weatherwise Program.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 6th day of July, 2021.

Ryan Lukson, Mayor

Attest:

Approved as to form:

Jennifer Rogers, City Clerk

Heather Kintzley, City Attorney



CITY-AUTHORIZED CONTRACTOR AGREEMENT

THIS AGREEMENT, made this _____ day of _____, _____, between the **City of Richland**, a municipal corporation and city of the first class located in Benton County, Washington, hereinafter referred to as the "City," and **Silverbow Roofing INC**, hereinafter referred to as "Contractor."

W-I-T-N-E-S-S-E-T-H:

I. Recitals

WHEREAS, the Community directly benefits from promoting energy efficiency within the City's utility service area; and

WHEREAS, effective October 1, 1994, the City entered into the Conservation Resource Acquisition Agreement with the Bonneville Power Administration (BPA) in order to acquire cost-effective conservation resources; and

WHEREAS, the Conservation Resource Acquisition Agreement was superseded by an Energy Conservation Agreement between the City and BPA, effective September 7, 2017, an agreement providing the current legal conditions by which the parties are pursuing cost-effective conservation resources; and

WHEREAS, upon contracting with BPA, the City's Residential Weatherwise Agreement became an extension of the master Conservation Resource Acquisition Agreement and its successor Energy Conservation Agreement; and

WHEREAS, the Energy Conservation Agreement provides the City with the flexibility to determine the conservation program activities and incentive levels necessary to achieve conservation objectives; and

WHEREAS, conservation objectives are achieved through a three-party contracting effort between the City, a City-Authorized Contractor tasked with performing energy-efficient improvements, and the benefiting property owner;

NOW, THEREFORE, in consideration of the covenants and agreements herein contained and the terms and conditions hereof, the parties agree as follows:

II. Agreement

1. Scope of Work - Contractor agrees to furnish all labor, materials, bonding, insurance, supervision and equipment required to install energy conservation measures

available through the City's Weatherwise Service. All understandings related to this scope of work shall be in writing. No verbal agreements between the benefiting property Owner ("Owner"), Contractor, and the City will supersede this Agreement.

2. Duration and Termination - The term of this Agreement shall be for one year from the above date, and shall automatically renew on the annual anniversary date each successive year. Either party may terminate this agreement without cause at any time upon thirty (30) days' written notice to the other party.
 - a. Contractor's failure to respond to any requests made by the City related to insurance requirements or bonding information shall result in immediate termination of this Agreement.
 - b. Contractor is obligated to satisfactorily and timely complete all projects that are in progress as of the date of termination of this Agreement.
3. Procedure - The City and Contractor share the responsibility to market and promote the City's Weatherwise Service.
 - a. The City shall market the Weatherwise Service, including City-Authorized Contractors, through utility billing inserts, radio and print advertising, and other appropriate media. In response to a request for a proposal that resulted from the City's marketing efforts, the Contractor shall promote the benefits of energy efficiency and participation in the City's Weatherwise Service to the Owner. The Contractor may also use its own client lists and sales leads to solicit participation in the Weatherwise Service.
 - b. The Contractor may market the Weatherwise Service and their status as a City-Authorized Contractor. All Contractor marketing and advertising that has any reference to the City's Weatherwise Service or their status as a City-Authorized Contractor shall be submitted to the Energy Services Director (ESD) or designee for advance written approval.
 - c. The Contractor's performance goal shall be to consistently obtain a sales amount equal to, or in excess of, the average Contractor Weatherwise Service sales amount. Achievement of the performance goal will be periodically monitored to determine, in the Energy Service Director's reasonable judgment, if the Contractor has achieved the performance goal. The Contractor shall be required to submit a marketing plan to achieve this goal at the time of execution of this Agreement. The marketing plan shall be subject to City review and acceptance.
 - d. No work will be authorized without the Owner's completion of the City's Weatherwise application, and the Contractor's completion of the City's proposal form. The Contractor and Owner share the responsibility to determine whether the building meets the City's Eligibility Criteria, and to indicate such on the Weatherwise proposal. The Contractor is responsible for identifying and informing the City and the Owner of all required actions that do not qualify for

payment under the Weatherwise Service. The Contractor shall only propose materials and equipment that are pre-approved by the City. Contractor shall not receive any payment under this Agreement until City approves final inspection and acceptance of the work performed.

4. Eligibility Criteria - In order to qualify, a home must have electric heating equipment that meets one of the City's Eligibility Criteria defined in the City's loan application. Further, Owners of residences must receive electric utility service from the City.
5. Energy Conservation Measure Availability - Homes must meet the City's energy conservation measure availability defined in the City's Weatherwise Loan Service Standard Terms and Conditions. The Contractor agrees to restrict its weatherization materials, products, and installation methods to those currently approved by the City.
6. Commencement - Once a signed Owner's Application and City proposal form are received, the City will schedule loan closing with the Owner. The City reserves the right to reject any proposal to perform work under this Agreement at the sole discretion of the City.
 - a. All changes that result in an increase in the bid price or increased scope of work after Notice to Proceed is issued must be approved in writing by the City and the Owner. Reductions in the scope of work and cost may be made, and the Weatherwise Statement may be revised, upon City installation acceptance without requiring a revision to the Loan Agreement.
 - b. Contractor shall not commence work on an Owner's residence until an authorized City representative has issued the Notice to Proceed based on the Owner's acceptance of the City's Application, Contractor's Proposal and City Loan Agreement. No new work may be issued to the Contractor by the City until all jobs which have been in progress for more than one-hundred and twenty (120) days have passed all required inspections. The Contractor's failure to complete all work and obtain City inspection and acceptance within one-hundred and twenty (120) days from the date of the City's Notice to Proceed enables the City and/or Owner to cancel the Loan Agreement without incurring Contractor cancellation costs.
 - c. The City may cancel the Loan Agreement for just cause, and shall not be responsible for any Owner or Contractor damages.
 - d. Prior to the commencement of work, the Owner may request to cancel the Loan Agreement. Such request to cancel shall be submitted to the City in writing. If the Loan Agreement is canceled by the Owner after the City has given notice to proceed to the Contractor, the Owner is responsible to pay any cancellation costs to the Contractor identified in the proposal.

7. Warranty - Contractor warrants that the work and materials furnished under this Agreement shall comply with accepted industry standards and the requirements established by the City. These requirements are included in this Agreement by reference. The City may revise its requirements at any time based on one or more health or safety concerns. All other City requirements may be revised semi-annually.
- a. If any defect in the Contractor's workmanship or materials is discovered within two (2) years after the completion of any work, the Contractor shall expeditiously remedy, repair, correct, replace or cause to be remedied, repaired, or replaced at the Contractor's expense such defect in materials or workmanship.
 - b. Sealed insulated glass units and heat pumps shall be warranted against failure for a minimum period of five (5) years. Insulation shall be warranted against failure for a minimum of two (2) years. The Contractor shall provide to the City and the Owner a written warranty for the sealed insulated glass units, heat pumps, and insulation.
 - c. The foregoing warranties shall survive any inspection the City may elect to make.
8. Acceptance and Payment - Upon completion of the work, the Contractor will notify the City that the job is complete, and upon inspection approval by the City and acceptance by the Owner, Contractor may then invoice the City for the amount stated in the Notice to Proceed. The Contractor will be paid within thirty (30) days subsequent to City acceptance of the work and after an acceptable detailed invoice has been received by the City. The Contractor shall promptly pay all subcontractors or materials providers employed by the Contractor in connection with installations undertaken pursuant to this Agreement.
- a. All material and workmanship shall be subject to inspection, examination and testing by duly authorized agents of the City at any time during or after installation of materials. Such inspection will verify the home meets the relevant Eligibility Criteria, and that the energy conservation measures are available and meet all City material and installation requirements. The Owner and Contractor must be present at the time of inspection.
 - b. The City shall have the right to reject defective material and workmanship and/or require its correction without cost or expense to the City or the Owner. Contractor shall be given timely notice of the defect and a reasonable opportunity to cure. In the event the Contractor fails or refuses to correct any defect as set forth herein, the City may, at its option, deduct an equitable amount from any payment owing or to be owed to the Contractor, or take such other steps as it deems appropriate.
 - c. The City reserves the right to levy penalty charges for re-inspection due to work or materials failing previous inspection. Charges will be billed to the Contractor on a monthly basis. The City reserves the right to collect re-inspection penalty charges which are outstanding and past due by deducting the amount owing for

re-inspection from subsequent payments owed to the Contractor for completed work.

- d. If the Contractor's work fails to pass on the third inspection, the City may, in consultation with the Owner, determine to correct the work and deduct the cost from the amount due the Contractor.
 - e. The Owner may submit a written complaint within five (5) business days of City inspection acceptance. If an Owner complaint is not received in writing within five business days of City inspection acceptance, the materials and their installation have been accepted by the Owner. If in the opinion of the Energy Services Director a reasonable written complaint is received within this period the City may withhold payment to the Contractor. The Contractor must resolve reasonable Owner written complaints within five business days of receipt. If the Owner and Contractor cannot resolve the complaint within ten business days of City inspection acceptance, the Contractor agrees to relieve the City from all responsibilities including payment under this Agreement.
9. Indemnification/Hold Harmless - The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.
10. Waiver of Liens - Contractor understands that the City does not wish construction liens or materialmen's liens to be placed upon the property of participating Owners as a result of any services or materials provided by Contractor pursuant to the City's Weatherwise Service. Therefore, Contractor hereby waives any common law or statutory right it may have to any construction, materialmen, or other lien against such property, and agrees that it will not file, nor by failure to pay any materialmen or subcontractor, cause any other person to file a construction, materialmen, or other lien against the real property owned by participating Owners.
- a. If Contractor does file, or permits to be filed, or by its failure to pay lawful obligations causes to be filed any such lien in contravention of this Agreement, without City approval, the City, without prejudice to any other rights it may have,

may take such action it deems necessary or advisable so as to remove any such lien, and Contractor shall reimburse the City for all expenses, including attorney's fees, incurred by the City in resolving the issue of the lien and obtaining or attempting to release the lien.

- b. Advance City permission to file such liens may be obtained on a case by case basis under certain conditions. A contractor's request to file such liens shall be made in writing to the Energy Services Director. The request shall identify a justifiable reason for the lien.

11. Liability Insurance -

- a. *Duty to Obtain*: The Contractor shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damage to property which may arise from, or in connection with, the performance of the work hereunder by the Contractor, their agents, representatives, employees or subcontractors.
- b. *No Limitation*: Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- c. *Minimum Scope of Insurance*: Contractor shall obtain insurance of the types described below:
 - i. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
 - ii. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, contractors pollution liability, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent endorsement. There shall be no endorsement or modification of the Commercial General Liability Insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

- iii. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
 - d. *Minimum Amounts of Insurance*: Contractor shall maintain the following insurance limits:
 - i. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
 - ii. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.
 - e. *Other Insurance Provision*: The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.
 - f. *Acceptability of Insurers*: Companies writing the insurance to be obtained under this Agreement shall be licensed to do business under Chapter 48 RCW. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII, and the ratings shall be indicated on the insurance certificates.
 - g. *Verification of Coverage*: Prior to commencement of work, Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor.
 - h. *Subcontractors*: The Contractor shall be solely responsible for determining the insurance coverage and limits required, if any, to be obtained by all subcontractors, which determination shall be made in accordance with reasonable and prudent business practices.
12. Bonding - In accordance with the Revised Code of Washington (RCW) 39.08 and (where applicable) RCW 60.28, Contractor shall provide the City with a payment bond and a performance bond covering all work performed under this Agreement, in an amount of not less than \$10,000. Each bond shall be executed on the forms provided by the City, and must be issued by a company registered to do business in the State of Washington.
13. Certifications and Permits - The Contractor shall give all required notices and comply with all applicable laws, ordinances, rules and regulations, and certification requirements, and shall procure and pay for all necessary municipal or other governmental permits, licenses and inspections.

- a. Heat Pump contractors shall employ a minimum of one Refrigeration Service Engineer's Society (R.S.E.S.) certified employee to maintain its status as a City-Authorized Heat Pump Contractor.
 - b. All Contractors shall request an in-progress inspection from the Energy Services Business Services Division for construction work that may become concealed (e.g., closed-blows and advanced air-sealing).
 - c. Copies of all required permits and certifications, including, but not limited to a City building permit, State electrical permit, Air Pollution Control Authority asbestos abatement permit, and insulation certification shall be attached to the invoice for each completed job.
 - d. In the event the Energy Services Business Services Division inspector does not complete both inspections on behalf of the City, the Contractor will be required to request an inspection from both the City's Building Inspection Division and Business Services Division for all work performed under this Agreement.
14. Subcontractors - The Contractor is solely responsible for identifying and hiring a competent subcontractor to perform subcontracted work. Contractor shall be fully responsible to the City and Owner for acts or omissions of any subcontractor performing any portion of the work under this Agreement, or any person directly or indirectly employed by the Contractor, and nothing contained herein shall create any contractual relationship between subcontractors and the City. Contractor is responsible for ensuring all subcontractors' compliance with the terms of this Agreement, and for immediately addressing issues raised by the City regarding subcontractor performance.
15. Kickbacks - Kickbacks, rebates, price reductions or inducements for participation or non-participation or other non-service benefits from the Contractor to an Owner are strictly prohibited, and such acts may be subject to prosecution or civil action under federal law. Bid rigging or bid collusion may subject the parties to triple damages under federal law in addition to any other penalties prescribed by law.
16. Clean-up - Contractor shall at all times keep Owner's premises and work areas free from accumulation of waste materials or rubbish, and prior to completion of work, remove any rubbish from the premises, including but not limited to tools, scaffolding, equipment, and materials. Upon completion of work, Contractor shall leave the premises in a condition satisfactory to the City and the Owner. In the event the Contractor fails to comply with any of the foregoing in a prompt and workmanlike manner after reasonable notice, the City may, after such notice, perform the clean-up work and removal at the expense of the Contractor. Expenses associated with the City's clean-up and removal of waste and/or materials on the Contractor's behalf shall be deducted from any balance owing to Contractor for completed work before final payment is made.

17. Independent Contractor - Contractor is an independent contractor. This is no partnership, agency, or employment of contractor relationship between Contractor or any of the Contractor's employees and the City. The parties expressly understand and agree that the equipment used, and the personnel employed by Contractor in performing the work contemplated by this Agreement shall at all times be under the sole and exclusive control of the Contractor. The Contractor shall not create any obligation or assume any responsibility for the City, nor shall the Contractor attempt to bind the City in any way whatsoever; nor shall Contractor represent in any manner that he or she is an agent of the City or associated or affiliated with the City in any capacity other than as an independent contractor. The parties' express intent is that no vicarious liability be created by the contractual relationship between Contractor and the City.
18. Assignment - Contractor shall not assign or transfer any right, title or interest under the terms of this Agreement without the prior written approval of the City.
19. Survival - The provisions covering Warranty, Waiver of Liens and Indemnification shall survive termination, cancellation, or expiration of this Agreement.
20. City-Authorized Contractor List - The City Authorized Contractor List will be posted on the City's website at www.ci.richland.wa.us/EnergyServices as an alphabetized list of authorized contractors.
21. Violations – The following procedure shall be followed for all perceived violations of this Agreement:
 - a. If the City has reason to believe that Contractor is in violation of this Agreement, the Energy Services Director shall promptly notify Contractor in writing of the violation. The written notice shall set forth the nature of the alleged violation and identify the desired remedy.
 - b. Contractor shall respond in writing within thirty (30) days of receipt of such notice. Contractor's response shall either be: 1) an indication and explanation that the violation has been cured, along with any supporting documentation to evidence the cure; or 2) a written cure plan that satisfies the Energy Services Director; or 3) an explanation that refutes the alleged violation with documentation to support Contractor's position that the alleged violation did not occur.
 - c. If, after review, the Energy Services Director agrees that no violation occurred, no further action is necessary. However, if, after review, the Energy Services Director determines in his reasonable judgment that the violation has not been cured within the time allowed, and no satisfactory cure plan has been presented and approved, Contractor may be removed from the City-Authorized Contractor list, and City may take any action authorized by law or equity to enforce the terms of this Agreement.

- d. If the nature of the violation is such that it cannot be fully cured within thirty (30) days due to circumstances beyond Contractor's control, the period of time in which Contractor must cure the violation may be extended in writing by the Energy Services Director for such additional time as is reasonably necessary to complete the cure, provided that: 1) Contractor shall have promptly commenced the cure; and 2) in the Energy Services Director's reasonable judgment, Contractor is diligently pursuing its efforts to cure the violation. If, in the Energy Services Director's reasonable judgment, the violation has not been cured within the extended time allowed, Contractor may be removed from the City-Authorized Contractor list, and City may take any action authorized by law or equity to enforce the terms of this Agreement.
 - e. In the event a Contractor's name is removed from the City-Authorized Contractor list, Contractor may request to be reinstated on the list by curing violation(s) of this Agreement or providing a cure plan that satisfies the Energy Services Director.
 - f. The Energy Services Director may authorize a Contractor who has been voluntarily or involuntarily removed from the City-Authorized Contractor list to complete work under the Weatherwise Service. Such authorization would permit the Contractor to serve owners, but the Contractor would not enjoy the benefits of being listed as a City-Authorized Contractor.
22. Amendments - All amendments to this Agreement, except as identified herein, shall be in writing and signed by both parties. The Weatherwise Material & Installation Specifications, the Eligibility Criteria definitions, and the definitions of Energy Conservation Measure Availability are incorporated by reference into this Agreement, and may be periodically amended by the City in its sole discretion. When written changes to referenced documents are issued by an authorized City representative, the amendments shall automatically become effective and incorporated into this Agreement.
23. Asbestos Notice to Contractors - Notice is hereby given that there is a strong possibility that many heating, ventilation, and air conditioning systems and pre-fabricated, pre-cut, government-built and other buildings located within the City of Richland contain asbestos. Contractors are solely responsible for taking proper precautions to protect their employees, the benefiting property Owners, and their tenants from the release of asbestos fibers into the environment. Contractor shall immediately notify the City if any area of a structure has had any asbestos removed by other than an EPA-approved procedure documented in writing by an EPA-certified contractor. Any structure that is known or suspected to have had asbestos removed shall be considered as contaminated until decontamination has been performed and certified, and all written documentation has been accepted by the City. Decontamination and all other types of asbestos abatement are costs borne by the Owner. The Contractor is responsible for determining and documenting on the City's proposal form whether the scope of work will affect or disturb asbestos.

24. Covenant Not to Compete/Conflict of Interest - For a period of two (2) years following the completion of City service by a City employee, the City shall not transact business or interface with any former City employee who has been directly concerned or who personally participated in the activities which form the subject of this Agreement while they were employed by the City of Richland. The City shall have the right to request replacement of the former City employee by another company employee who does not have this conflict of interest. The City retains the right to terminate this Agreement should the Contractor not comply with the request.
25. Americans with Disabilities Act - The City of Richland adheres to and promotes the requirements of the federally-legislated Americans with Disabilities Act of 1990. By signing this Agreement, the Contractor certifies and agrees that they will adhere to and promote the requirements of the Americans with Disabilities Act. The Contractor will assure that a similar statement to this certification will become a part of all agreements with any subcontractor with whom they contract.
26. Notices - All notices required to be given to Contractor or City under this Agreement shall be in writing and shall be deemed served when delivered by hand or by Federal Express or similar service during normal business hours; or when mailed via certified mail, return receipt requested. They parties may, upon mutual agreement, determine to accept notice via email.

Notices shall be given to the following:

For the City of Richland For the Contractor:

Energy Services Director	Owner's Name: <u>Richard & Theresa Hilburn</u>
City of Richland	Company Name: <u>Silverbow Roofing, INC</u>
625 Swift Blvd., MS-23	Mailing Address: <u>3718 W 15th Ave</u>
Richland, WA 99352	City, State Zip <u>Kennewick, WA 99338</u>
(509) 942-7403	Business Phone: <u>509-586-1015</u>
	Business Fax: <u>N/A</u>
	Contact Email: <u>silverbowroofing@yahoo.com</u>

27. Severability - If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable as written, the remainder of the Agreement or the applications of the remainder of the Agreement shall not be affected.
28. Governing Law/Forum Selection - Unless otherwise controlled by federal law, the interpretation and enforcement of this Agreement shall be governed by the laws of the State of Washington. The parties agree that Benton County is the appropriate

venue for filing of any civil action arising out of this Agreement. Contractor expressly agrees to submit to personal jurisdiction in Benton County Superior Court.

29. Legal Action - The parties agree that should legal action be necessary to enforce any of the provisions of this Agreement, that the prevailing party will be awarded its reasonable attorney's fees and costs in action.

IN WITNESS WHEREOF, the Contractor has obtained all certificates, bonds, licenses, certifications and insurance in compliance with this Agreement, and the parties have entered into the City-Authorized Contractor Agreement as of the day and year written below.

CITY OF RICHLAND, WASHINGTON

SILVERBOW ROOFING, INC

Jon Amundson
Interim City Manager

Date

Authorized Representative

Date

Printed Name

ATTEST:

Jennifer Rogers
City Clerk

APPROVED AS TO FORM:

Heather Kintzley
City Attorney

**Request for Taxpayer
Identification Number and Certification**

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the
requester. Do not
send to the IRS.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. <i>Silverbow Roofing, Inc.</i>	
	2 Business name/disregarded entity name, if different from above <i>same</i>	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ►	
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)	
	5 Address (number, street, and apt. or suite no.) See instructions. <i>3718 W 15th Ave.</i>	Requester's name and address (optional) <i>City of Richland Energy Services 625 Swift Blvd, MS 23 Richland, WA</i>
	6 City, state, and ZIP code <i>Kennewick, WA 99338</i>	
	7 List account number(s) here (optional) <i>N/A</i>	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
or	
Employer identification number	

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ► <i>Sharon Halburn</i>	Date ► <i>4/12/21</i>

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

SILVERBOW ROOFING, INC.
3718 w. 15TH AVE.
KENNEWICK, WA 99338
509-586-1015
SILVERBOWROOFING@YAHOO.COM

Energy Services Director
City of Richland
625 Swift Blvd., MS-23
Richland, WA 99352
509-942-7403

RE: WEATHERIZATION REBATE MARKETING PLAN

- Include Weatherization Rebate Program in all future printed ads.
- Printed flyer notifying existing customers of our Weatherization Rebate participation.
- Hand out customer Weatherization Rebate Package explaining the program with applications.
- Provide customer referrals upon request and with permission.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/03/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Monteith Insurance Inc 8518 W Gage Blvd Ste 1 Kennewick WA 99336	CONTACT NAME: Cindy Sams PHONE (A/C, No, Ext): (509) 783-2141 FAX (A/C, No): (509) 783-9350 E-MAIL ADDRESS: CindySams@aaawa.com												
INSURER(S) AFFORDING COVERAGE													
INSURED Silverbow Roofing Inc 3718 W 15th Ave Kennewick WA 99338-	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>INSURER A: Crum & Forster Specialty Insurance Co.</td> <td style="text-align: right;">NAIC # 44520</td> </tr> <tr> <td>INSURER B: Travelers Casualty Insurance Co of Ameri</td> <td style="text-align: right;">25674</td> </tr> <tr> <td>INSURER C: Westchester Surplus Lines Insurance Co.</td> <td style="text-align: right;">10172</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER A: Crum & Forster Specialty Insurance Co.	NAIC # 44520	INSURER B: Travelers Casualty Insurance Co of Ameri	25674	INSURER C: Westchester Surplus Lines Insurance Co.	10172	INSURER D:		INSURER E:		INSURER F:	
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INSURER F:													

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR W/D	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS														
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☒ PROJECT ☐ LOC OTHER:	X	X	GLO-075358	04/01/2021	04/01/2022	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td style="text-align: right;">\$ 100,000</td></tr> <tr><td>MED EXP (Any one person)</td><td style="text-align: right;">\$ 5,000</td></tr> <tr><td>PERSONAL & ADV INJURY</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td style="text-align: right;">\$ 2,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td style="text-align: right;">\$ 2,000,000</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000	MED EXP (Any one person)	\$ 5,000	PERSONAL & ADV INJURY	\$ 1,000,000	GENERAL AGGREGATE	\$ 2,000,000	PRODUCTS - COMP/OP AGG	\$ 2,000,000		\$
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AGGREGATE	\$ 2,000,000																				
	\$																				
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	GLO-075358	04/01/2021	04/01/2022	☒ PER STATUTE ☐ OTH-ER <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>E.L. EACH ACCIDENT</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td style="text-align: right;">\$ 1,000,000</td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td style="text-align: right;">\$ 1,000,000</td></tr> </table>	E.L. EACH ACCIDENT	\$ 1,000,000	E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	E.L. DISEASE - POLICY LIMIT	\$ 1,000,000								
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E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000																				
E.L. DISEASE - POLICY LIMIT	\$ 1,000,000																				
C	Contractors Pollution Liability	X	X	G28278755-001	04/01/2021	04/01/2022	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Limit</td><td style="text-align: right;">1,000,000</td></tr> </table>	Limit	1,000,000												
Limit	1,000,000																				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER IS LISTED AS ADDITIONAL INSURED .

CERTIFICATE HOLDER City of Richland 625 Swift Boulevard Richland WA 99352-	CANCELLATION AI 120714 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

Fax: () -

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POLICY NUMBER: BA7P781771

COMMERCIAL AUTO
CA 20 48 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: SILVERBOW ROOFING INC

Endorsement Effective Date: 6/2/2021

SCHEDULE

Name Of Person(s) Or Organization(s): City of Richland

625 Swift Blvd, Richland WA 99352

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph A.1. of Section II - Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph D.2. of Section I - Covered Autos Coverages of the Auto Dealers Coverage Form.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Any person or organization you have agreed in a written contract to add as an additional insured on your policy provided the written contract is signed prior to the "bodily injury", "property damage" or "personal and advertising injury" City of Richland 625 Swift Blvd, Richland, WA 99352	Locations and operations covered under this policy when required by written contract signed prior to the "bodily injury", "property damage" or "personal and advertising injury" All Locations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.

WEATHERWISE PERFORMANCE BOND
to City of Richland, Washington

Bond No. 65513876

The City of Richland, Washington, (City) has awarded to Silverbow Roofing, Inc. dba Silverbow Roofing (Principal), a City Authorized Contractor Agreement (Agreement) providing for the installation of approved materials under the City's Weatherwise Service, which Agreement is on file at the Richland Energy Services offices and by this reference made a part hereof. Said Principal is required under the terms of that Agreement to furnish a bond for performance of all obligations under the Agreement and in accordance with Title 39.08 Revised Code of Washington (RCW).

The Principal, and WESTERN SURETY COMPANY (Surety), a corporation, organized under the laws of the State of South Dakota and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the City, in the sum of Ten Thousand US Dollars (\$10,000.00), subject to the provisions herein.

This statutory performance bond shall become null and void if and when the Principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Agreement and fulfill all the terms and conditions of all duly authorized modifications, additions, and changes to said Agreement that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no assignment of work by the City to the Principal under the terms of the Agreement, nor any change, extension of time, alteration or addition to the terms of the Agreement, the specifications accompanying the Agreement, or to the work to be performed under the Agreement, shall in any way affect its obligation on this bond. The Surety waives notice of any assignment of work, change, extension of time, alteration or addition to the terms of the Agreement or the work performed. This performance bond shall not be cancelled or changed until at least thirty (30) days after prior written notice has been given to the City.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully-executed and original power of attorney for the officer executing on behalf of the Surety.

PRINCIPAL

Silverbow Roofing, Inc. dba Silverbow Roofing

Theresa Hilburn 6/2/21
Principal Signature Date

Theresa Hilburn
Printed Name

Vice President
Title

SURETY

WESTERN SURETY COMPANY

Cynthia Sams 6-2-21
Surety Signature Date

CYNTHIA L SAMS
Printed Name

ATTORNEY IN FACT
Title

Name, address, and telephone of local office/agent of Surety Company is:

MONTEITH INSURANCE, INC.

8518 W. GAGE BLVD., KENNEWICK WA 99336

509-783-2141



WEATHERWISE PAYMENT BOND
to City of Richland, Washington

Bond No. 65513876

The City of Richland, Washington, (City) has awarded to Silverbow Roofing, Inc. dba Silverbow Roofing (Principal), a City Authorized Contractor Agreement (Agreement) providing for the installation of approved materials under the City's Weatherwise Service, which Agreement is on file at the Richland Energy Services offices and by this reference made a part hereof. Said Principal is required under the terms of that Agreement to furnish a payment bond in accordance with Title 39.08 Revised Code of Washington (RCW).

The Principal, and WESTERN SURETY COMPANY (Surety), a corporation organized under the laws of the State of South Dakota and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the City, in the sum of Ten Thousand US Dollars (\$10,000.00), subject to the provisions herein.

This statutory payment bond shall become null and void if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW Titles 39.08 including all workers, laborers, mechanics, subcontractors, and materialmen, and all persons who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no assignment of work to the Principal by the City under the terms of the Agreement, nor any change, extension of time, alteration or addition to the terms of the Agreement, the specifications accompanying the Agreement, or to the work to be performed under the Agreement, shall in any way affect the Surety's obligation on this bond. The Surety waives notice of any assignment of work, change, extension of time, alteration or addition to the terms of the Agreement or the work performed. This payment bond shall not be cancelled or changed until at least thirty (30) days after prior written notice has been given to the City.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully-executed and original power of attorney for the officer executing on behalf of the Surety.

PRINCIPAL

Silverbow Roofing, Inc. dba Silverbow Roofing

Theresa Hilburn 6/2/21
Principal Signature Date

Theresa Hilburn
Printed Name

Vice President
Title

SURETY

WESTERN SURETY COMPANY

Cynthia Sams 6-2-21
Surety Signature Date

CYNTHIA L SAMS
Printed Name

ATTORNEY IN FACT
Title

Name, address, and telephone of local office/agent of Surety Company:

MONTEITH INSURANCE, INC.

8518 W. GAGE BLVD., KENNEWICK WA 99336

509-783-2141



Western Surety Company

POWER OF ATTORNEY - CERTIFIED COPY

Bond No. 65513876

Know All Men By These Presents, that WESTERN SURETY COMPANY, a corporation duly organized and existing under the laws of the State of South Dakota, and having its principal office in Sioux Falls, South Dakota (the "Company"), does by these presents make, constitute and appoint CYNTHIA L SAMS

its true and lawful attorney(s)-in-fact, with full power and authority hereby conferred, to execute, acknowledge and deliver for and on its behalf as Surety, bonds for:

Principal: Silverbow Roofing, Inc. dba Silverbow Roofing

Obligee: City of Richland

Amount: \$1,000,000.00

and to bind the Company thereby as fully and to the same extent as if such bonds were signed by the Vice President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said attorney(s)-in-fact may do within the above stated limitations. Said appointment is made under and by authority of the following bylaw of Western Surety Company which remains in full force and effect.

"Section 7. All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

If Bond No. 65513876 is not issued on or before midnight of June 1, 2022, all authority conferred in this Power of Attorney shall expire and terminate.

In Witness Whereof, Western Surety Company has caused these presents to be signed by its Vice President, Paul T. Bruflat, and its corporate secretary, CYNTHIA L SAMS, this 2nd day of June, 2021.



WESTERN SURETY COMPANY

Paul T. Bruflat

Paul T. Bruflat, Vice President

On this 2nd day of June, in the year 2021, before me, a notary public, personally appeared Paul T. Bruflat, who being to me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of WESTERN SURETY COMPANY and acknowledged said instrument to be the voluntary act and deed of said corporation.



M. Bent

Notary Public - South Dakota

My Commission Expires March 2, 2026

I the undersigned officer of Western Surety Company, a stock corporation of the State of South Dakota, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable, and furthermore, that Section 7 of the bylaws of the Company as set forth in the Power of Attorney is now in force.

In testimony whereof, I have hereunto set my hand and seal of Western Surety Company this 2nd day of June, 2021.

WESTERN SURETY COMPANY

Paul T. Bruflat

Paul T. Bruflat, Vice President

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.



STATE OF
WASHINGTON
Profit Corporation

SILVERBOW ROOFING, INC.
3718 W 15TH AVE
KENNEWICK, WA 99338-2281

UNEMPLOYMENT INSURANCE - ACTIVE
TAX REGISTRATION - ACTIVE

BUSINESS LICENSE

Issue Date: Dec 31, 2020
Unified Business ID #: 602678503
Business ID #: 001
Location: 0001
Expires: Dec 31, 2021

INDUSTRIAL INSURANCE - ACTIVE

CITY ENDORSEMENTS:

KENNEWICK GENERAL BUSINESS #104572 - ACTIVE
WALLA WALLA GENERAL BUSINESS - NON-RESIDENT - ACTIVE
PASCO GENERAL BUSINESS - NON-RESIDENT #28477 - ACTIVE
CONNELL GENERAL BUSINESS - NON-RESIDENT #2290 - ACTIVE
RICHLAND GENERAL BUSINESS - NON-RESIDENT #F0C970 - ACTIVE
WEST RICHLAND GENERAL BUSINESS - NON-RESIDENT #3212 - ACTIVE

LICENSING RESTRICTIONS:

Not licensed to hire minors without a Minor Work Permit.

REGISTERED TRADE NAMES:

SILVERBOW ROOFING, INC.

This document lists the registrations, endorsements, and licenses authorized for the business named above. By accepting this document, the licensee certifies the information on the application was complete, true, and accurate to the best of his or her knowledge, and that business will be conducted in compliance with all applicable Washington state, county, and city regulations.

Director, Department of Revenue

Department of Labor and Industries
PO Box 44450
Olympia, WA 98504-4450

SILVERBOW ROOFING INC
3718 W 15TH
KENNEWICK WA 99338

6

SILVERBOW ROOFING INC

Reg: CC SILVERI930BB
UBI: 602-678-503

Registered as provided by Law as:
Construction Contractor
(CC01) - GENERAL

Effective Date: 1/2/2007
Expiration Date: 1/15/2023



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Resolutions - Adoption

Core Focus Area 2 - Manage & Maintain Infrastructure & Facilities

Subject:

Resolution No. 81-21, Authorizing an Amendment to the Consultant Agreement with Murraysmith related to the Wastewater Treatment Plant Aeration Basin Retrofit Project

Department:
Public Works

Ordinance/Resolution Number:
81-21

Document Type:
Resolution

Recommended Motion:

Adopt Resolution No. 81-21, authorizing the City Manager to sign and execute an amendment to the consultant agreement amendment with Murraysmith, Inc. for the purpose of completing the retrofit analysis and design for the Plant's aeration basin facilities.

Summary:

The City's Wastewater Treatment Plant is subject to state and federal regulations intended to protect the environment from pollutants carried by municipal wastewater. The 2021 - 2026 Capital Improvement Plan includes a project titled Wastewater Treatment Plant Aeration Basin Improvements. The project's objectives are intended to resolve the plant's existing aeration basin facilities' need for rehabilitation to ensure adequate capacity and serviceability.

In February 2020, Council awarded a consultant agreement to Murraysmith, Inc. to complete the retrofit analysis and design for the aeration basins' facilities. Since then, it was determined that the original scope of work as a maintenance and equipment replacement project should be expanded to enable servicing the City's anticipated growth for the upcoming 20-year period. An amendment to the original agreement is necessary to account for the scope, budget and schedule adjustments needed to accomplish the additional efforts.

Staff therefore recommends adoption of Resolution 81-21, authorizing the amendment to the original agreement with Murraysmith, Inc.

Fiscal Impact:

The 2021 Capital Improvement Plan (CIP) - Wastewater Treatment Plant Aeration Basin Improvements has an approved budget of \$4,260,000 for this project. Prior years budget appropriations have funded work to date, leaving the full \$4,260,000 available to spend for this consultant work. The total cost of the proposed agreement amendment will not exceed \$249,618.

Attachments:

1. Resolution No. 81-21
2. Consultant Contract Amendment-Murraysmith

RESOLUTION NO. 81-21

A RESOLUTION of the City of Richland authorizing an amendment to the consultant agreement with Murraysmith, Inc. for the Wastewater Treatment Plant Aeration Basin Retrofit project.

WHEREAS, the City's Wastewater Treatment Plant (the "Plant") is subject to state and federal regulations to protect the environment from pollutants carried by municipal wastewater; and

WHEREAS, the Plant's existing aeration basin facilities and equipment are in need of rehabilitation and repairs to ensure adequate capacity and serviceability; and

WHEREAS, the 2021-2026 Capital Improvement Plan (CIP) includes a program titled Wastewater Treatment Plant Aeration Basin Improvements; and

WHEREAS, on February 18, 2020, through Resolution No. 31-20, Richland City Council authorized a consultant agreement with Murraysmith, Inc. to complete the retrofit analysis and design for the Plant's aeration basin facilities; and

WHEREAS, in December 2020, an amendment to the agreement was executed, extending the contract term to July 1, 2022; and

WHEREAS, the original scope of work as a maintenance and equipment replacement project requires adjustment to enable servicing the City's anticipated growth for the upcoming 20-year period; and

WHEREAS, a second amendment to adjust scope, budget and schedule is necessary and has been negotiated with Murraysmith, Inc.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the City Manager is authorized to sign and execute an amendment to the consultant agreement with Murraysmith, Inc. for the purpose of completing the retrofit analysis and design for the Plant's aeration basin facilities as provided therein.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

This space intentionally left blank.

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 6th day of July, 2021.

Ryan Lukson, Mayor

Attest:

Approved as to form:

Jennifer Rogers, City Clerk

Heather Kintzley, City Attorney



**CITY OF RICHLAND
AGREEMENT WITH MURRAYSMITH, INC.
CONTRACT NO. 39-20**

AMENDMENT NO. 2

I. RECITALS

There is now in full force and effect between the Parties a Professional Services Agreement, Contract No. 39-20, related to **WWTF Aeration Basin #2 Retrofit**. The Agreement was fully executed on **2/28/2020**. The expiration date of the Agreement is **7/1/2022**. The Parties desire to amend the Agreement as provided in Section II below.

II. AGREEMENT

In exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to amend Contract No. 39-20 as follows:

1. The Consultant shall provide services described in the attached **Exhibit A**, which is hereby incorporated into Contract No. **#**.
2. Fees.
 - a. ☐ The contract value remains unchanged.
 - b. ☒ Compensation for the additional services rendered pursuant to this Amendment shall be \$249,618.00. The new contract value is now \$649,025.
3. The contract period shall: ☒ remain unchanged; ☐ extend to **date**.
4. It is understood and agreed that all other terms and conditions of the Agreement shall be and remain the same. This Amendment may be executed electronically.

III. SIGNATURES

City:

Murraysmith, Inc.

By: _____
Jon Amundson, ICMA-CM
Interim City Manager

By: _____

Name: _____

Date: _____

Title: _____

Date: _____

Approved as to form:

Heather Kintzley, City Attorney

AMENDMENT # 2 - SCOPE OF WORK

WWTP Aeration Basin Retrofit

CITY OF RICHLAND, WA

Background

In 2020, Murraysmith (Consultant) was selected by the City of Richland (City) to complete a design for the rehabilitation, repair, and replacement of failing aeration basin facilities and improve their operation and performance. With the design effort partially complete, there were questions about the design capacity of the basins. In subsequent discussions, the City decided to have Consultant modify the design criteria to accommodate 20-years of estimated growth. This change resulted in the need for additional electrical and control system scope.

This amendment has been developed to adjust the Scope of Services, Budget, and Schedule to account for the additional work required to redefine the design criteria and complete the modified design concept. Consultant's efforts to date to work with the City to redefine the design criteria were charged against previously approved tasks – primarily Tasks 1 and 4.

The following tasks and subtasks from the original contract do not require additional work and are considered complete.

- Subtask 1.2 Project Management Plan
- Subtask 1.3 Kick-Off Meeting
- Task 2 – Project Definition
- Task 3 – Design Development
- Subtask 5.1 Project Definition Construction Cost Opinion (Level 4)
- Subtask 5.2 Design Development Construction Cost Opinion (Level 3)
- Subtask 6.1 Project Definition QA/QC
- Subtask 6.2 Design Development QA/QC

The following tasks and subtasks define the remaining work required to complete the design. They are either modified versions from the original contract or are new items and supersede the remaining work items from the original contract.

- Subtask 1.1 – Invoices/Progress Reports
- Subtask 1.4 – City and Design Team Coordination
- Task 4 – Contract Document Development
- Subtask 5.3 – 80% Contract Document Construction Cost Opinion
- Subtask 5.4 – 100% Contract Document Construction Cost Opinion
- Subtask 6.3 – 80% Contract Document QA/QC
- Subtask 6.4 – 100% Contract Document QA/QC

Scope of Services

The following describes and defines the remaining work items and are the basis for the budget and schedule documented in this amendment.

Task 1 - Project Management

The objective of this task is to assure the design team stays on track to deliver the project on time and budget.

Activities:

1.1 Invoices/Progress Reports

At a minimum, updates on project schedule and budget will be provided as part of the monthly invoicing process. Invoices will include hours worked by project personnel and other direct expenses. Monthly progress reports will accompany each invoice and include budget status, summary of work accomplished, estimated work to be completed in the next period, issues encountered, and actions taken or those still required, and identification of known potential impacts to scope, budget, or schedule.

1.4 City and Design Team Coordination

As project manager, Craig Anderson will lead and oversee project communications with the City and design team throughout the duration of the project, lead meeting discussions, keep the City up-to-date on project issues and details, monitor/manage project schedule and budget, and the

quality of the work product. Mark Cummings and Hannah Carpenter will assist Craig with project management efforts to provide secondary points of contact and responsibility.

Deliverables

1. Monthly invoice and progress report (PDF electronic format)

Assumptions

1. Consultant assumes a Notice to Proceed date for the amendment work in early June.
2. The remaining project work covered by this amendment is anticipated to be no more than 6 months; therefore, it is assumed that there will be up to 6 progress payments/status reports.
3. Meeting facilitation will be limited to those specifically identified in this scope of work.
4. The City will provide clear, consolidated and timely input and review of the work products produced by the consultant.

Task 4 – Contract Document Development

The purpose of this task is to transform the developed design concept into the detailed Contract Documents necessary for the bidding, award, and construction of the work. This task has been divided into multiple steps to facilitate review and finalization of the documents. The developed design concept is summarized below. Similar modifications will be provided in both of the City's existing aeration basins.

- Replacement of the fine bubble diffuser system in both aeration basins
 - Bid documents will allow use of standard 3-inch EPDM tube or EDI's "mini-panel" EPDM tube diffusers.
 - The design capacity of the diffuser system is to match the existing diffusers.
- Basins partitioned into four passes using a FRP baffle system (Enduro).
 - a "pin-pin" baffle support system will be employed.
 - longitudinal and lateral steel beams will be used to provide the top "pin". Existing steel beams will be reused as feasible/practical.
 - the bottom "pin" will consist of a concrete leveling pad installed on top of the existing basin floor.
- Selector upgrades
 - Addition of mixed liquor recycle pump and piping from the last aerobic zone to the front of the selector.
 - new/reduced size submersible mixers located on the outer wall of the basin. No portable davit cranes or other removal aid devices will be provided. City will access the mixers using a boom truck.

- Basin drainage improvements.
 - sump pit added near where the City presently has installed trash pump transfer piping.
 - addition of sloped grout floor covering to provide drainage and channels to the sump.
 - grout will be sawcut in a pattern matching the existing construction/control joints of the basin.
 - sealant will be applied to the grout floor and existing construction/control joints above the grout to improve water tightness.
 - Two manually operated fabricated slide gates will be installed in the FRP baffle between the selector and the first pass aerated zones. The gates are for protecting the selector baffle wall during basin draining and filling and to aid basin cleaning for maintenance.
 - Two new walkways per basin will be added to allow installation and access to the drain gates. The new and existing walkways will be integrated into the FRP baffle top pin support system.

- Blower system revisions.
 - relocation of the two existing Neuros NX300 blowers to the existing blower building
 - the addition of two new Neuros or Aerzen high speed turbo blowers
 - a total firm capacity to accommodate 11.4 mgd WWTP influent flow at today's wastewater strength.
 - new DO probes, flowmeters, and control valves for each diffuser zone

- Air piping system improvements.
 - new stainless-steel supply piping from the blower building to and across the aeration basins.
 - new stainless steel blower intake piping with supplemental Endustra air filters

- Blower Building modifications.
 - existing ceiling joist and blocking modifications to accommodate the new blower intake pipes.
 - Installation of new membrane roof system (over blower portion of building only)
 - Approximately 6-foot extension of blower building to the east.

- Electrical and Instrumentation upgrades
 - Demolition of the existing indoor switchgear to make space for the other electrical equipment required to support the developed design concept.
 - Replacement of existing indoor switchgear with a new outdoor switchgear
 - Electrical system improvements sized to accommodate blowers necessary for a future 12.8 mgd WWTP influent flow at today's wastewater strength.
 - Modification of the existing PLC and SCADA systems to support the proposed changes. Replacement or updates of existing systems will not be performed.

Activities:

4.1 80% Contract Document Development

Consultant will prepare an approximately 80% complete set of Contract Documents to be used for an overview discussion with and subsequent review by the City. These documents will include the Bidding Requirements, Contract Form, Conditions of the Contract, Specifications, and Drawings. Drawings and specifications will include the required civil site work, structural, process mechanical, electrical, and instrumentation and control design necessary for both the bidding and construction of the proposed improvements.

More detailed system performance and/or configuration analysis is needed to properly size, configure, and design the WWTP improvements. This work includes:

- **WWTP Hydraulic Model** – The existing facility hydraulic model for the main plant flow from the Primary Clarifier effluent weirs to the Secondary Clarifier effluent weirs will be finalized using critical hydraulic control element measurements from a supplemental site survey provided by the City.
- **WWTP Air System Model** - The model of the City's existing aeration basin low pressure air system will be finalized and used to specify blower performance requirements.
- **Preliminary Building Official Coordination**– Consultant will coordinate with the local Building Official to discuss and document requirements associated with the design and construction of the proposed facilities. Topics will include items such as applicable codes (building/plumbing/electrical/fire) and requirements, special inspection needs for non-facility improvements, and design and construction review and approval process.
- **Process Control Narrative Descriptions** – Consultant will develop process control narrative descriptions (PCNDs) for use by the City's preferred programming consultant during construction. PCNDs will only describe the intended operation of unit processes/systems and the general control and integration of the project equipment. Additional coordination between the programming consultant and the designer during construction should be anticipated.

4.2 General Contractor Supplemental Bidder Responsibilities

Due to the specialized nature of the construction work, Consultant will work with City to develop supplemental bidder responsibility criteria to include in the bidding documents. The criteria used will be based on similar material used by the Consultant on past projects with modifications as necessary to meet specific state or City needs and preferences. Criteria will be crafted with the intent of not unduly restricting competition, but to establish a baseline threshold of the ability of the bidder to successfully perform the work.

4.3 City Construction Contract Legal/Insurance Questionnaire

Consultant will prepare and submit to the City a Construction Contract Legal/Insurance Questionnaire to facilitate City review and input. City responses to the questionnaire will be used for the development of the front-end contract documents.

4.4 Energy Efficiency Incentive Coordination & Application

Energy efficiency incentive payments are available from the Bonneville Power Administration (BPA) which are applied for and coordinated with the local power authority. This subtask is an allowance for the Consultant to work with both BPA and the City as the local power company to apply and receive energy efficiency incentive approval. Incentive investigations will be limited to the addition of a mixed liquor recycle pumping system, reduced size selector mixers, and the addition of new blowers.

4.5 80% Contract Document Overview Meeting

The general results of subtask 4.1 through 4.4 will be presented to the City via conference call and web meeting to gather City input. A summary of the discussions, decisions, and action items will be prepared.

4.6 100% Contract Documents Development

Following receipt of the 80% review comments (City only), consultant will incorporate them, as appropriate, and prepare a 100% set of Contract Documents for formal Ecology review.

4.7 100% Contract Document Overview Meeting

A general overview of the 100% Contract Documents will be presented to the City and Ecology via conference call and web meeting. The meeting will include an overview of the proposed improvements to Ecology and discussion of changes made to address the previous City comments.

4.8 Finalization of Contract Documents

Following receipt of the 100% review comments from both the City and Ecology, consultant will incorporate them, as appropriate, and prepare a final stamped set of Contract Documents ready for final approval and subsequent bidding.

Deliverables

1. 80% Contract Document Package (PDF electronic format)
2. 80% Contract Document Meeting Minutes (PDF electronic format)
3. 100% Contract Document Package (PDF electronic format)
4. Final Contract Document Package (PDF electronic format and two hard copies for Ecology review and approval)

Assumptions

1. The developed design concept is considered “frozen” and all major design decisions are considered complete and ready for final contract document development. Significant design changes initiated after this point can have adverse budget impacts.

2. The Contract Documents shall consist of the following elements or sections – Bidding Requirements, Contract Forms, Conditions of the Contract, Technical Specifications, and Drawings.
3. Consultant's standard documents (which are based on the Engineering Joint Contract Documents) will be used for the basis of the Bidding Requirements, Contract Forms, and Conditions of the Contract sections of the Contract Documents. These base documents will be augmented with amendments or revisions as necessary to address Richland specific standards and requirements, as applicable.
4. The specifications will be based on consultant's standard documents and follow the 50 division Construction Specification Institute (CSI) format.
5. It is assumed the construction will be performed by a single general contractor who will furnish all equipment, materials, and labor necessary to construct the project.
6. The Contract Documents will assume a lump sum bid and award to the lowest responsive, responsible bidder (as defined by the City).
7. The drawings will be developed using consultant's standard AutoCAD software. At Consultant's discretion, some drawings may be produced in three-dimensional format to assist the design, review, and construction process.
8. The drawings will be produced in 22" by 34" full-size format, but with text and layout that will allow the use of half-size sheets.
9. The need for more extensive facility condition activities (e.g. – excavations and destructive or non-destructive testing) is not anticipated.
10. Visits to other treatment facilities to evaluate equipment and/or material alternatives are not anticipated.
11. Geotechnical subsurface investigations and services are not included. The geotechnical design criteria will be assumed as either defined by a geotechnical report from a past project, that allowed per the pertinent building code, and/or as implied by as-built drawings.
12. ASCE 41 will be used to evaluate the existing blower building structural elements for the building expansion. It is assumed that this evaluation will show that the existing CMU wall elements are adequate for the proposed addition and no lateral upgrades are required.
14. Blower building expansion is assumed to be conditioned integrally with the rest of the facility using existing HVAC equipment without modification.
15. City review will occur after the overview meetings. Consultant and City project leads will meet to discuss and resolve review comments no later than two weeks after the meeting.
16. Consultant will continue to proceed with design efforts, as needed, while City and Ecology perform their reviews.
17. Improvements required in Aeration Basin No. 1 are assumed to be the same as those identified for Aeration Basin 2.
18. Public outreach and regulatory agency coordination or permitting beyond Ecology contract document review is not included.

Task 5 – Cost Opinions

The intent of this task is to prepare construction cost opinions throughout the design process to be used as a tool to help the City and design team manage the project from a budgetary perspective. Consultant will endeavor to produce these opinions within the accuracy ranges identified in AACE International's Recommended Practice Document No. 18-R-97.

These cost opinions should be expected to vary from the actual construction bids received due to several factors outside the control of the City or Consultant. These factors include, but are not limited to, volatility and unknowns regarding commodity pricing, the labor market, inflationary escalation, etc. Consultant may employ an outside construction cost estimating firm to assist with elements of this task.

Activities:

An estimate of construction costs will be developed based on the deliverables prepared for each of the project tasks as listed below:

5.3 80% Contract Document Construction Cost Opinion (Level 3)

5.4 100% Contract Document Construction Cost Opinion (Level 2)

Deliverables:

1. Construction cost opinions based on the design information available in each design step.

Task 6 – Design Reviews

The purpose of this task is to monitor the quality of the project using design lead independent quality assurance/quality control (QA/QC) review. Multidiscipline internal QA/QC design reviews will be performed informally during the progress of the design. Formal QA/QC review will be performed at the following stages/subtasks.

Activities:

6.3 80% Contract Document QA/QC

6.4 100% Contract Document QA/QC

Budget

The work covered under this scope of work will be billed on a time and materials basis at the billing rates for personnel working directly on the project, which will be made at the Consultant's Hourly Rates, plus Direct Expenses incurred.

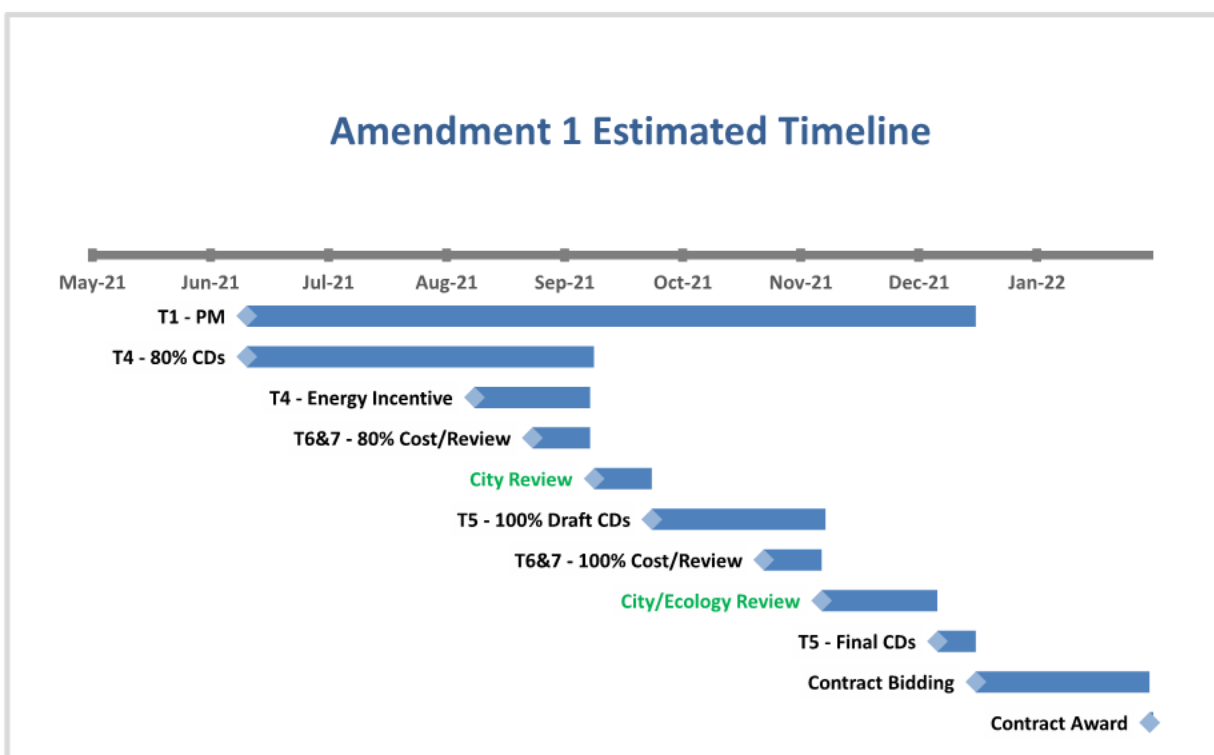
The original total budget, the remaining (unspent) original budget as of the end of May 2021, the budget estimated to complete the design (ETC), and the resulting new total budget amounts by task are outlined in the table below. Consultant will manage the work identified to the aggregate authorized total budget amount which shall not be exceeded without prior written authorization from the City.

TASK	ORIGINAL BUDGET		AMENDMENT 1 BUDGET	
	Total	Remaining	ETC	New Total
Task 1 - Project Management	\$33,016	\$(6,098)	\$22,894	\$62,008
Task 2 – Project Definition	\$48,678	\$(121)	\$0	\$48,799
Task 3 – Design Development	\$75,936	\$(98)	\$0	\$76,035
Task 4 – Contract Document Development	\$181,904	\$10,833	\$230,850	\$401,921
Task 5 – Cost Opinions	\$33,324	\$19,315	\$19,563	\$33,572
Task 6 – Design Reviews	\$26,549	\$16,718	\$16,860	\$26,691
TOTAL	\$399,407	\$40,549	\$290,167	\$649,025

NET BUDGET INCREASE = \$249,618

Project Schedule

The work provided under this scope of work is anticipated to be completed per the milestone dates provided below. Consultant will make every effort to complete the work in a timely manner at or before these milestone dates. However, it is agreed that consultant can not be responsible for delays occasioned by factors beyond its control, nor by factors that could not reasonably have been foreseen at the time this scope was executed (e.g. – extended City or Ecology review, design changes, etc.).



Tasks

Start	End	Duration	Label
06/11/21	12/17/21	189	T1 - PM
06/11/21	09/08/21	90	T4 - 80% CDs
08/09/21	09/08/21	30	T4 - Energy Incentive
08/24/21	09/08/21	15	T6&7 - 80% Cost/Review
09/09/21	09/23/21	15	City Review
09/24/21	11/07/21	45	T5 - 100% Draft CDs
10/23/21	11/07/21	15	T6&7 - 100% Cost/Review
11/07/21	12/07/21	30	City/Ecology Review
12/07/21	12/17/21	10	T5 - Final CDs
12/17/21	01/31/22	45	Contract Bidding
01/31/22	02/01/22	1	Contract Award



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Resolutions - Adoption

Core Focus Area I - Promote Financial Stability & Operational Effectiveness

Subject:

Resolution No. 82-21, Authorizing a Services Agreement with the Benton-Franklin Health District for COVID-19 Mobile Vaccination Clinics

Department:

Fire & Emergency Services

Ordinance/Resolution Number:

82-21

Document Type:

Resolution

Recommended Motion:

Adopt Resolution No. 82-21, authorizing the City Manager to sign and execute a services agreement with the Benton-Franklin Health District for reimbursement of COVID-19 mobile vaccination staffing expenses.

Summary:

Fire & Emergency Services Department provided staffing to support COVID-19 mobile vaccination clinics. This proposed services agreement with the Benton-Franklin Health District provides a reimbursement mechanism to collect City expenses related to the mobile vaccination clinics. City expenses for the mass vaccination site at the Fairgrounds are considered under a separate agreement.

Staff recommends adoption of Resolution No. 82-21.

Fiscal Impact:

This agreement provides for reimbursement of all expenses related to the mobile covid-19 vaccination clinics. The total reimbursement amount is still being calculated at time of publishing.

Attachments:

- I. Resolution No. 82-21

RESOLUTION NO. 82-21

A RESOLUTION of the City of Richland authorizing a services agreement with the Benton-Franklin Health District for support and staffing of COVID-19 mobile vaccination clinics.

WHEREAS, the Benton-Franklin Health District desires to increase access to COVID-19 vaccinations for the residents of Benton and Franklin counties through mobile vaccination clinics; and

WHEREAS, Richland Fire & Emergency Services has been asked to assist with the mobile vaccination clinics by providing appropriately trained and credentialed vaccinators; and

WHEREAS, the City of Richland and the Benton-Franklin Health District desire to enter into an agreement to establish a financial process to reimburse the City for the expenses associated with supporting Benton-Franklin Health Department's mobile vaccination clinics.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the City Manager is authorized to sign and execute a services agreement with the Benton-Franklin Health District, in substantially the form attached hereto as **Exhibit A**, for reimbursement of direct expenses related to staffing mobile vaccination clinics.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 6th day of July, 2021.

Ryan Lukson, Mayor

Attest:

Approved as to form:

Jennifer Rogers, City Clerk

Heather Kintzley, City Attorney



COMMUNITY SERVICES CONTRACT
Between
BENTON-FRANKLIN HEALTH DISTRICT
And
CITY OF RICHLAND

This contract, by and between **Benton-Franklin Health District ("BFHD" or "District")**, a Washington special purpose district doing business at 7102 W. Okanogan Place, Kennewick, WA 99336, and **City of Richland ("City")**, a Washington municipal corporation with service at 625 Swift Blvd., Richland WA 99352. BFHD and City are collectively known as the "Parties." This contract is being executed for the purpose of providing COVID-19 Vaccines for mass vaccination clinics.

EFFECTIVE DATES: June 1, 2021 – July 20, 2021

ORGANIZATIONAL CONTACT INFORMATION

Benton-Franklin Health District		Phone: (509) 460-4200		
7102 W. Okanogan Place		Fax: (509) 460-4590		
Kennewick, WA 99336				
Title/Responsibility	Contact Name	Phone	Fax	Email
Administrator/Signature Authority	Jason Zaccaria	509-460-4567	509-460-4590	Jasonz@bfhd.wa.gov
Contracts Manager	Bonnie Hall	509-460-4553	509-460-4590	Bonnieh@bfhd.wa.gov
Sr. Manager–Surveillance & Investigations	Rick Dawson	509-460-4313	509-460-4515	Rickd@bfhd.wa.gov
Vaccine Coordinator	Miriam Chaviano	509-460-4226	509-460-4590	Miriamc@bfhd.wa.gov
Technical Planning Coordinator	Sierra Knutson	509-460-4533	509-460-4590	Sierak@bfhd.wa.gov

City of Richland 625 Swift Blvd. Richland, WA 99352	Phone (509) 942-7381			
Responsibility	Contact Name	Phone	Email	
Signature Authority – City Manager	Joe Amundson	509-942-7381	jamundson@ci.richland.wa.us	
Fire Chief – Primary Contact	Tom Huntington	509-942-7795	thuntington@ci.richland.wa.us	
Finance Director	Brandon Allen	509-942-7302	ballen@ci.richland.wa.us	

I. Recitals

Whereas, the aforementioned Parties desire to enter into this agreement in which they shall work together to accomplish the goals and objectives set forth; and

Whereas, the Parties are desirous to enter an understanding, thus setting out the working arrangements that both Parties agree shall be necessary to complete this partnership.

Now, therefore, the Parties hereto agree as follows:

II. Agreement

1. MISSION AND PURPOSE

This partnership is being established with the intended mission to increase access to COVID-19 vaccinations for the residents of Benton and Franklin Counties through mobile vaccination clinics.

2. GOVERNING MEDICAL AUTHORITY

- **District Health Officer:** The Benton-Franklin Health District Health Officer, Dr. Amy Person, will provide the standing orders and processes for the specific vaccines to be given.
- **EMS Medical Director:** The EMS Medical Director will provide medical oversight, authority and direct the training protocols for EMS staff to be able to administer injections.
- **Public Readiness and Emergency Preparedness Act (PREP Act) Declaration:** The PREP Act Declaration issued a fifth amendment on January 28, 2021 which provides additional categories of qualified persons authorized to prescribe, dispense, and administer COVID-19 vaccines authorized by the US Food and Drug Administration.

3. SERVICES

Benton-Franklin Health District shall render and provide the following services that may include, but are not limited to:

- Provide for the selection, ordering and receiving of COVID-19 vaccines;
- Serve as the ordering provider for the vaccine and provide standing vaccination orders;
- Provide training and technical support on the PREPMOD documenting and scheduling system;
- Provide vaccine storage and handling resources, such as the CDC Vaccine Storage and Handling Toolkit as they become available;
<https://www.cdc.gov/vaccines/hcp/admin/storage/toolkit/storage-handling-toolkit.pdf>
- Develop and supply digital versions of educational materials as requested;
- Provide access to a vaccine coordinator who will provide technical assistance with regard to planning, documentation, and transportation;
- Provide reimbursement for direct expenses incurred by the City of Richland for rendering services under this Agreement.

City of Richland shall render and provide the following services that include, but are not limited to:

- Provide staffing for the vaccination events including appropriately credentialed vaccine providers as requested by the CBC West site command;
- Ensure vaccine providers are appropriately training in COVID-19 vaccine administration;

- Document all vaccines given in PREPMOD;
- Distribute the current Vaccine Information Statements (Exhibit B) each time a vaccine is administered and maintain records in accordance with the National Childhood Vaccine Injury Act (NCVIA), which includes reporting clinically significant adverse events to the Vaccine Adverse Event Reporting System (VAERS);
- Submit invoices in a timely manner as described below.

4. INDEPENDENT CONTRACTOR

The Parties intend that an independent contractor relationship will be created by this Agreement. The City and its employees or agents performing under this Agreement are not employees or agents of the District. The City, employees, or agents performing under this Agreement will not hold themselves out as, nor claim to be, an officer or employee of the District by reason hereof, nor will the City, its employees or agent make any claim to right, privilege or benefit that would accrue to such officer or employee. City shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services by City's employees.

5. TERMS OF UNDERSTANDING

The term of this Agreement shall be from **June 1, 2021** to **July 20, 2021** and may be extended upon written agreement of both Parties.

6. AUDIT REQUIREMENT

A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with 2 CF R 200.501. If a single or program-specific audit is conducted for the funding of this agreement, City shall meet the audit requirements as described in 2 CFR Part 200 Subpart F.

7. COMPENSATION AND METHOD OF PAYMENT

The maximum consideration for this contract is **\$200,000** without prior written approval. BFHD will reimburse the City of Richland for satisfactory completion of the services and requirements specified in this Contract, payable upon receipt and approval of a signed invoice of actual allowable costs based on monthly invoices submitted by City of Richland to the Health District. Invoices shall be submitted by the **20th** of the following month by email, fax or mail to the BFHD Accountant and Contracts Manager listed on page one of this Agreement.

- **Monthly invoices** shall include agency name, employee name, dates, hours worked and any other documentation to assist BFHD with validation of invoices to reimburse City for operational labor support. City of Richland is to retain financial back-up documentation such as payroll and general ledger records, and sub-contractor records and provide upon request.
- **Final Invoice** is due within 20 calendar days of the end of the Agreement. If final invoices and reports are not submitted within 20 days of the close of the Agreement, and the City is without good cause for the delayed submission, the Health District will be relieved of all liability for payment to the City of Richland of the amounts set forth in said invoice or any subsequent invoice.
- **In-kind services** are not reimbursable expenses under this Agreement.

- **Indirect rates** are NOT allowed to be submitted for reimbursement under this funding source. Overhead costs in support of this project are allowable as a direct charge only.

8. **FUNDING SOURCE**

The source of funding for this Agreement comes from multiple federal funding sources listed below. These funds have specific terms and conditions that must be met and are outlined below. City must meet and maintain compliance with these requirements.

Federal funding sources include:

- Mass Vaccination FEMA CFDA # 97.036 FAIN # not yet identified
- COVID LHJ OFM Allocation – CARES CFDA # 97.036 FAIN # not yet identified

City is identified as a Subrecipient for purposes of federal funding requirements and is not permitted to subcontract any of these funds without prior written permission.

Federal Funding Accountability and Transparency Act (FFATA)

This statement of work is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how the federal funds are spent. To comply with this act and be eligible to perform the activities in this statement of work, the LHJ must have a Data Universal Numbering System (DUNS®) number.

Restrictions on Funds (what funds can be used for which activities, not direct payments, etc.)

Please reference the Code of Federal Regulations:

https://www.ecfr.gov/cgibin/retrieveECFR?gp=1&SID=58ffddb5363a27f26e9d12ccec462549&ty=HTML&h=L&mc=true&r=PART&n=pt2.1.200#se2.1.200_1439

Allowable Activities - See list of allowable activities below, Appendix 2 from Coronavirus Relief Fund - Guidance for State, Territorial, Local, and Tribal Governments - Updated September 2, 2020 and a link:

<https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>

9. **DEBARMENT AND SUSPENSION CERTIFICATION**

This Contract is federally funded. Entities that are debarred, suspended, or proposed for debarment by the US Government are excluded from receiving federal funds. The following acts by individuals or entities may result in permissive exclusions. This list is not all-inclusive. For a complete list refer to section [1128A \(b\)](#) of the Social Security Act:

- License revocation or suspension
 - Fraud, kickbacks or other prohibited activities
 - Entities controlled by a sanctioned individual
 - Making false statements or misrepresentation of material
- **Background checks:** Contractor will ensure that all staff working in activities funded by this Contract have passed a Washington State Patrol background check upon hire and retain proof of such to be made available to District upon request.
 - **System for Award Management (SAM) site registration:** Contractor shall acquire a Statewide Payee Number by registering at www.sam.gov

- **DUNS number:** To comply with the Federal Funding Accountability and Transparency Act and be eligible to perform the activities in this Statement of Work, Contractor agrees to register for and provide the District with its DUNS number.

The City, by signature of this Agreement, certifies that City is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (debarred). City also agrees to notify the District immediately by providing written notice if Contractor becomes debarred during the term of this Agreement.

10. INTERNAL CONTROLS AND ACCOUNTING SYSTEM

City shall establish and maintain a system of accounting and internal controls which complies with generally accepted accounting principles in accordance with the Financial Accounting Standards Board (FASB), the Governmental Accounting Standards Board (GASB) or both as applicable to the City's form of incorporation.

11. ETHICS CERTIFICATION

City certifies that it is now and shall remain in compliance under Chapter 42.52 RCW, Ethics in Public Service, throughout the term of this Agreement.

12. HIPAA AND HITECH COMPLIANCE

To the extent applicable to this Agreement, City agrees to comply with the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH ACT"), the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 USC § 1320d through d-8 ("HIPAA"), and any current and future regulations promulgated under either the HITECH Act or HIPAA Act including without limitation the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 (the "Federal Privacy Regulations"), the federal security standards contained in 45 C.F.R. Parts 160, 162 and 164 (the "Federal Security Regulations") and the federal standards for electronic transactions, all as may be amended from time to time, and all collectively referred to herein as "HIPAA Requirements." City agrees not to use or disclose any Protected Health Information (PHI) (as defined in 45 C.F.R. § 164.501) or Individually Identifiable Health Information (as defined in 42 USC § 1320d), other than as permitted by HIPAA Requirements and the terms of this Agreement. City will cause its personnel to enter into any further agreements as necessary to facilitate compliance with HIPAA Requirements.

13. CORRECTIVE ACTION

If BFHD determines that a breach of this Agreement has occurred, that is, City has failed to comply with any terms or conditions of this Agreement, or the City has failed to provide in any manner the work or services agreed to herein, and if BFHD deems said breach to warrant corrective action, the following sequential procedure will apply:

- a. BFHD will notify the Contractor in writing of the nature of the breach;

City shall respond in writing within three (3) working days of its receipt of such notification, which response shall indicate the steps being taken to correct the specified deficiencies. The corrective action plan shall specify the proposed completion date for bringing the Contract into compliance, which date shall not be more than ten (10) days from the date of City's response, unless BFHD specifies in writing an extension of time.

- b. BFHD will notify City in writing of its determination as to the sufficiency of City's corrective action plan.
- c. If City does not respond within the appropriate time with a corrective action plan, the City's corrective action plan will be determined by BFHD to be insufficient, and the Health District may commence termination or suspension of this Agreement as provided for herein.
- d. In addition, BFHD may withhold any payment owed the City or prohibit City from incurring additional obligations of funds until BFHD is satisfied that corrective action has been taken or completed.

14. DISPUTE RESOLUTION

The parties shall use their best efforts to cooperatively resolve disputes and problems that arise in connection with this Agreement. Both Parties will make a good faith effort to continue immediately to carry out their respective responsibilities under this Agreement while attempting to resolve the dispute.

15. HOLD HARMLESS AND INDEMNIFICATION

- a. City shall defend, indemnify and save harmless BFHD, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of, or in any way resulting from, the negligent acts or omissions of City, its officers, employees, subcontractors and/or agents, in its performance and/or non-performance of its obligations under this Agreement. City agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, and of its employees or agents. For this purpose, City, by mutual negotiation, hereby waives, as respects BFHD only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event BFHD incurs any judgment, award, and/or cost arising therefrom, including attorneys' fees, to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the City.
- b. BFHD shall defend, indemnify, and save harmless the City, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of, or in any way resulting from, the negligent acts or omissions of BFHD, its officers, employees, and/or agents, in its performance and/or non-performance of its obligations under this Agreement. BFHD agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, BFHD, by mutual negotiation, hereby waives, as respects the City only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event the City incurs any judgment, award, and/or cost arising therefrom, including attorneys' fees, to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from BFHD.
- c. Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Agreement.
- d. The indemnification, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

16. DATA USE, OWNERSHIP AND DISCLOSURE

Information provided to BFHD by City will be used for all necessary public health efforts as outlined in WAC 246-101. This will include sharing PHI under legally allowable ways for the purpose of protecting the health of the public as well as congregate data for public disclosures.

17. AMENDMENT OR CANCELLATION

This Agreement may be amended or modified at any time in writing by mutual consent of both parties. In addition, this Agreement may be cancelled by either party with 15 calendar days' advance written notice, with the exception where cause for cancellation may include, but is not limited to, a material and significant breach of any of the provisions contained herein, when it may be cancelled upon delivery of written notice to the other party.

18. GENERAL PROVISIONS

The Parties acknowledge and understand that they must be able to fulfill their responsibilities under this Agreement in accordance with the provisions of the law and regulations that govern their activities. Nothing herein is intended to negate or otherwise render ineffective any such provisions or operating procedures. The Parties assume full responsibility for their performance under the terms of this Agreement. If at any time either party is unable to perform their duties or responsibilities under this Agreement consistent with such party's statutory and regulatory mandates, the affected party shall immediately provide written notice to the other party to establish a date for resolution of the matter.

19. LIMITATION OF LIABILITY

BFHD and its local partners, including City of Richland, are working together to provide counter measures against the COVID-19 pandemic and are therefore covered under the PREP Act which provides immunity to covered persons for certain activities as defined in the PREP Act declaration issued by the Secretary of Health and Human Services.

<https://www.phe.gov/emergency/events/COVID19/COVIDvaccinators/Pages/PREP-ActImmunity-from-Liability-for-COVID-19-Vaccinators.aspx>

20. CONTRACT SUSPENSION

- **For Investigation:** In the event City or any of its partners, employees, or officers is investigated by a local, county, state or federal agency for a matter which the District feels may adversely affect the delivery of services under this Agreement, District may, without notice, suspend the delivery of services or disallow the person(s) involved in the allegation from providing services pending final resolution of the investigation.
- **For Suspension of Funding and Work:** Because District receives both state and federal funds, occasionally the District's funding source may enact a contract suspension due to sequestration, loss of budget appropriation, or other causes. When this occurs, District may exercise its right to suspend this Agreement until District's funding has resumed and approval to continue work has been received. At that time, District will notify City that it may resume work. All notice to suspend or reinstate work will be in writing. Any expenses incurred during the suspension of this Agreement may not be reimbursed later unless it is specifically approved at the time the Agreement is reinstated.

21. TERMINATION OF AGREEMENT

- **For Convenience:** This Agreement may be terminated by either Party for convenience with 14 calendar days' written notice. If this Agreement is so terminated, the Parties are only liable for performance rendered or costs incurred in accordance with this Agreement prior to the effective date of termination.
- **By Mutual Agreement:** This Contract may be terminated at any time by mutual agreement of both Parties.
- **Termination for Default:** In the event District determines the City has failed to comply with the terms and conditions of this Agreement, District has the right to suspend or terminate this Agreement. District shall notify the City in writing of the need to take corrective action. If corrective action is not taken within ten (10) Business days, this Agreement may be terminated. District reserves the right to suspend all or part of this Agreement, withhold further payments, or prohibit City from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by City or a decision by District to terminate this Agreement.
- **For Non-Allocation of Funds:** District's ability to make payments is contingent on the availability of its various funding sources. In the event funding from state, federal, or other funding sources is withdrawn, reduced, limited or suspended during the course of this Agreement, District at its sole discretion may elect to terminate this Agreement in whole or in part or to renegotiate this Agreement completely subject to new funding limitations or conditions.

22. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

23. NOTICE

Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person, by email, or certified mail, return receipt requested, to the address set forth on page one (1) of this Agreement or to such address as one may have furnished to the other in writing.

24. SEVERABILITY CLAUSE

In the event that any provision of this Agreement shall be deemed severable or invalid, and if any term, condition, phrase, or portion shall be determined to be unlawful or otherwise unenforceable, the remainder of the Agreement shall remain in full force and effect, so long as the clause severed does not affect the intent of the Parties. If a court should find any provision of this Agreement to be invalid or unenforceable, but that by limiting said provision it would become valid and enforceable, then said provision shall be deemed to be written, construed, and enforced as so limited.

25. ASSIGNMENT

Neither party to this Agreement may assign or transfer the responsibilities or agreement made herein without the prior written consent of the non-assigning party, which approval shall not be unreasonably withheld.

26. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the Parties hereto and supersedes all previous understandings and agreements, written and oral, with respect to this transaction. Neither Party shall be liable to the other for any representations made by any person regarding the terms of this Agreement, except to the extent that the same are expressed in this Agreement.

27. AUTHORIZATION AND EXECUTION

Each person executing this Agreement on behalf of another person, corporation, partnership, company, or other organization or entity represents and warrants that he or she is fully authorized to so execute and deliver this agreement on behalf of the entity or party for which he or she is signing. The parties hereby warrant to each other that each has full power and authority to enter into this agreement and to undertake the actions contemplated herein, and that this agreement is enforceable in accordance with its terms.

28. COUNTERPART ORIGINALS

Execution of this Agreement and any amendment or other document related to this Agreement may be by electronic signature and in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one whole agreement.

In witness whereof, the Parties hereto have executed this Agreement as of the date of the last signing party appearing below:

BENTON-FRANKLIN HEALTH DISTRICT

CITY OF RICHLAND

Jason Zaccaria – Administrator

Date

Jon Amundson, ICMA-CM
Interim City Manager

Date



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Resolutions - Adoption

Core Focus Area 3 - Increase Economic Vitality

Core Focus Area 5 - Maximize Community Amenities

Subject:

Resolution No. 83-21, Authorizing an Amendment to the Lease Agreement with Frost Me Sweet, LLC

Department:

Parks & Public Facilities

Ordinance/Resolution Number:

83-21

Document Type:

Resolution

Recommended Motion:

Adopt Resolution No. 83-21, authorizing the City Manager to sign and execute an amendment to Contract No. 147-20 with Frost Me Sweet, LLC to expand outdoor food and beverage service in a portion of Carol Woodruff Plaza.

Summary:

Frost Me Sweet is a restaurant north and adjacent to the City's Carol Woodruff Plaza in The Parkway district. Carol Woodruff Plaza is an urban plaza intended to improve the quality of life in Richland and to stimulate economic development.

The City manages an existing market-priced lease agreement with Frost Me Sweet, LLC to allow for exclusive food and beverage service adjacent to its place of business in a portion of Carol Woodruff Plaza (see Richland Contract No. 147-20). Frost Me Sweet, LLC desires to increase its outdoor food and beverage service in Carol Woodruff Plaza by adding 570 square feet to the existing 537.6 square feet leased under Contract No. 147-20. A separate portion of Carol Woodruff Plaza is also leased to 702 The Parkway, LLC for Moniker Wine Bar's exclusive food and beverage service. These uses are consistent with Carol Woodruff Plaza's intended purpose of stimulating economic development. Ample publicly accessible property within Carol Woodruff Plaza remains available for public use and enjoyment.

On June 24, 2021, the Parks & Recreation Commission gave a favorable recommendation to Frost Me Sweet, LLC's proposed lease expansion.

Staff recommends adoption of Resolution No. 83-21.

Fiscal Impact:

An expansion of food and beverage services in Carol Woodruff Plaza benefitting Frost Me Sweet, LLC will increase rent by \$216.60 per month for a monthly total of \$420.89. These figures represent market-based rent for the space. Lease revenue will be deposited into the Park Reserve Fund.

Attachments:

1. Resolution No. 83-21
2. Proposed First Amendment to Frost Me Sweet, LLC Lease

RESOLUTION NO. 83-21

A RESOLUTION of the City of Richland amending the lease agreement with Frost Me Sweet, LLC to add a portion of Carol Woodruff Plaza.

WHEREAS, the City manages an existing market-priced lease agreement with Frost Me Sweet, LLC to allow for exclusive food and beverage service adjacent to its place of business in a portion of Carol Woodruff Plaza (see Richland Contract No. 147-20); and

WHEREAS, Frost Me Sweet, LLC desires to increase its outdoor food and beverage service in Carol Woodruff Plaza by adding 570 square feet to the existing 537.6 square feet leased under Contract No. 147-20; and

WHEREAS, a separate portion of Carol Woodruff Plaza is also leased to 702 The Parkway, LLC for Moniker Wine Bar's exclusive food and beverage service; and

WHEREAS, Carol Woodruff Plaza is an urban plaza intended to improve the quality of life in Richland and to stimulate economic development consistent with the use contemplated herein; and

WHEREAS, on June 24, 2021, the Parks & Recreation Commission gave a favorable recommendation to Frost Me Sweet, LLC's proposed lease expansion; and

WHEREAS, ample publicly accessible property within Carol Woodruff Plaza remains available for public use and enjoyment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the City Manager is authorized to sign and execute a lease amendment with Frost Me Sweet, LLC to add 570 square feet of Carol Woodruff Plaza to the existing leased premises under Contract No. 147-20.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 6th day of July, 2021.

Ryan Lukson, Mayor

Attest:

Approved as to form:

Jennifer Rogers, City Clerk

Heather Kintzley, City Attorney



FIRST AMENDMENT TO LEASE AGREEMENT

**Between
CITY OF RICHLAND
And
FROST ME SWEET, LLC**

This **First Amendment** to the April 30, 2020 Lease Agreement (hereinafter “Original Agreement”) is made and entered into on this ____ day of July, 2021, by and between **Frost Me Sweet, LLC**, a Washington limited liability company (“FMS”), and the **City of Richland**, a Washington municipal corporation (“City”).

I. Recitals

WHEREAS, City and FMS entered into a Lease Agreement on April 30, 2020 allowing FMS to exclusively occupy a portion of the Carol Woodruff Plaza as identified therein (*see* Richland Contract No. 147-20) to and through December 31, 2024; and

WHEREAS, FMS desires to extend the Premises of the Original Agreement to add an additional 570 square feet to the existing 537.6 square feet described in Section II.1 of the Original Agreement; and

WHEREAS, FMS will pay additional rent for the additional 570 square feet in the amount of \$216.60 per month; and

WHEREAS, as of the date of this First Amendment, FMS is in good standing with the City and in compliance with the terms of the Original Agreement; and

WHEREAS, the best interests of City and FMS are served by increasing the Premises let to FMS under the Original Agreement by an additional 570 square feet for a total of 1,107.6 square feet, and increasing FMS’s rent to \$420.89 monthly.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and FMS hereby agree as follows:

II. Agreement

1. Section 1. Demise of Leased Facility is replaced in its entirety with the following:

Demise of Leased Facility. Landlord hereby lets and demises unto Tenant, and Tenant hereby receives and accepts from Landlord, the following described Leased Facility:

For Tenant’s exclusive use, a 12-foot by 80.3-foot (12' x 80.3') area covering

approximately 1,107.6 square feet on the north side of Carol Woodruff Plaza located at 706 George Washington Way, Richland, WA (the "Leased Facility"). The Leased Facility does not include any amenities or equipment.

The Leased Facility is depicted in the attached **Exhibit A**. The Leased Facility to which exclusive use is granted to Tenant is referred to herein as the "Premises."

2. Section 5. Rent is replaced in its entirety with the following:

Rent. Commencing on June 9, 2021, and occurring on the first of every month thereafter, Tenant shall pay rent to Landlord in the amount of \$0.38 per square foot or **Four Hundred Twenty Dollars and 89/100 (\$420.89)** per month plus lease hold excise tax as provided in Section 8 herein. Landlord will submit to Tenant a complete and accurate IRS form W-9 prior to Tenant's first payment of rent. Rent will be prorated for any partial month.

3. **Exhibit A** of the Original Agreement is hereby replaced with **Exhibit A** attached hereto and incorporated herein by this reference.
4. Except as expressly amended or modified by this Amendment, the Original Agreement is and shall continue to be in full force and effect in accordance with the terms thereof.
5. This Amendment shall be construed in accordance with, and governed by, the laws of the state of Washington.
6. The headings contained in this Amendment are for ease of reference only and shall not be considered in construing this Amendment.

IN WITNESS WHEREOF, the Parties have executed this First Amendment on the date first written above.

City of Richland

Frost Me Sweet, LLC

Jon Amundson, ICMA-CM
Interim City Manager

By: _____
Its: _____

Attest:

Jennifer Rogers, City Clerk

Approved as to form:

Heather Kintzley, City Attorney

ACKNOWLEDGEMENT

STATE OF WASHINGTON)
) :ss
COUNTY OF BENTON)

I, the undersigned, a notary public in and for the State and County aforesaid, do hereby certify that **JON AMUNDSON, INTERIM CITY MANAGER** for the City of Richland, known to me to be the same person whose name is subscribed to the foregoing Lease Amendment, appeared before me this day in person and acknowledged that, pursuant to his authority, he signed the said Lease as his free and voluntary act on behalf of the named Landlord, for the uses and purposes therein stated.

Given under my hand and seal this ____ day of July, 2021.

Notary Public

My commission expires _____

ACKNOWLEDGEMENT

STATE OF WASHINGTON)
) :ss
COUNTY OF BENTON)

I, the undersigned, a notary public in and for the State and County aforesaid, do hereby certify that _____, known to me to be the same person whose name is subscribed to the foregoing Lease, appeared before me this day in person and acknowledged that, pursuant to his/her authority, he/she signed the said Lease Amendment as his/her free and voluntary act on behalf of the named Tenant, for the uses and purposes therein stated.

Given under my hand and seal this ____ day of July, 2021.

Notary Public

My commission expires _____

ACKNOWLEDGEMENT

STATE OF WASHINGTON)
) :ss
COUNTY OF BENTON)

I, the undersigned, a notary public in and for the State and County aforesaid, do hereby certify that _____, known to me to be the same person whose name is subscribed to the foregoing Lease, appeared before me this day in person and acknowledged that, pursuant to his/her authority, he/she signed the said Lease Amendment as his/her free and voluntary act on behalf of the named Tenant, for the uses and purposes therein stated.

Given under my hand and seal this ____ day of July, 2021.

Notary Public

My commission expires _____

Exhibit A - Premises





COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Items - Approval

Core Focus Area I - Promote Financial Stability & Operational Effectiveness

Subject:

Authorize Travel for Mayor Lukson and Councilmember Thompson

Department:
City Manager

Ordinance/Resolution Number:

Document Type:
General Business Item

Recommended Motion:

Authorize travel for Mayor Lukson and Councilmember Thompson to attend the Energy Communities Alliance (ECA) conference in Alexandria, Virginia from September 8-10, 2021.

Summary:

Mayor Lukson and Councilmember Thompson plan to attend the Energy Communities Alliance (ECA) National Cleanup Workshop in Alexandria, Virginia from September 8-10, 2021.

The Energy Communities Alliance (ECA) is the only non-profit, membership organization of local governments adjacent to or impacted by U.S. Department of Energy activities. This workshop brings together local government officials to share information, establish policy positions, and promote community interests in coordination with the Department of Energy.

Richland Municipal Code (RMC) Sections 1.01.040 and 2.26.062 require Council approval for travel which requires either an overnight stay, the use of commercial transportation to travel outside of Washington State or when expenses exceed \$500.

Fiscal Impact:

Anticipated expenses are \$5,048 (total) for Mayor Lukson and Councilmember Thompson to attend the ECA National Cleanup Workshop. Many of these expenses will be reimbursed by ECA. City Council has adequate budget to cover costs not reimbursed.

Attachments:

1. 2021 ECA National Cleanup Workshop Agenda



2021 National Cleanup Workshop Agenda

September 8-10, 2021

Hilton Alexandria Mark Center – Alexandria, VA

“Capitalizing on a New Era of Cleanup Success”

Hosted by the Energy Communities Alliance in cooperation with the U.S. Department of Energy and the Energy Facility Contractors Group

WEDNESDAY, SEPTEMBER 8, 2021

4:00pm – 6:00pm	Registration Opens
4:00pm – 7:00pm	Exhibits Open
5:00pm – 7:00pm	Welcome Reception

THURSDAY, SEPTEMBER 9, 2021

7:00am – 8:00am	Registration and Continental Breakfast
8:00am – 8:15am	Opening Remarks Ron Woody , County Executive, Roane County, TN; Chair, Energy Communities Alliance (ECA) Michael Lempke , Chair, Energy Facility Contractors Group (EFCOG); President, Huntington Ingalls Industries' Technical Solutions Division
8:15am – 8:45am	Keynote Address: DOE Priorities Hon. Jennifer Granholm , U.S. Secretary of Energy (Invited)



8:45am – 9:15am	A New Era for EM Cleanup Ike White , Acting Assistant Secretary for Environmental Management, DOE
9:15am – 9:45am	Insights from Congress Rep. Adam Smith (D-Wash.) , Chairman, House Armed Services Committee (Invited)
9:45am – 10:00am	COFFEE BREAK
10:00am – 12:00pm	The Next Phase of EM Success Moderator: Nicole Nelson-Jean , Associate Principal Deputy Assistant Secretary for Field Operations, DOE-EM <i>...Progress on Portsmouth D&D at Building 326</i> Robert Edwards , Manager, Portsmouth Paducah Project Office, DOE JD Dowell , Project Manager, FBP <i>...Oak Ridge Cleanup Moves to Y-12, ORNL Central Campus</i> Jay Mullis , Manager, Oak Ridge Office of Environmental Management, DOE-EM Ken Ruefer , President, URS CH2M Oak Ridge (UCOR) <i>...A New Future for Savannah River National Laboratory</i> Mike Budney , Manager, Savannah River Site Operations Office, DOE-EM Vahid Majidi , Director, Savannah River National Laboratory
12:00pm – 1:00pm	LUNCH
1:00pm – 2:00pm	Partnering with DOE on Priority Issues: Environmental Justice, Cleanup Engagement and Clean Energy Production Shalanda Baker , Deputy Director for Energy Justice, Office of Economic Impact and Development, DOE Diahann Howard , Board Member, Environmental Management Advisory Board (EMAB) Additional speakers TBD
2:00pm – 2:30pm	COFFEE BREAK

2:30pm – 4:00pm	Upcoming EM Acquisition Plans and Schedule Norbert Doyle, Deputy Assistant Secretary for Acquisition and Project Management, DOE-EM <i>...Roundtable: The Path Forward for End-State Contracting</i> Moderator: Seth Kirshenberg, Executive Director, ECA Dae Chung, Associate Principal Deputy Assistant Secretary for Corporate Services, DOE-EM Jack Zimmerman, Director, Environmental Management Consolidated Business Center, DOE-EM Brian Vance, Manager, Office of River Protection/ Richland Operations Office, DOE-EM Michael Lempke, President, Huntington Ingalls Industries' Technical Solutions Division Additional speakers TBD
4:00pm – 5:00pm	Roundtable: Lessons Learned and Improving Project Performance Moderator: Martin Schneider, Energy Facility Contractors Group (EFCOG) Todd Shrader, Principal Deputy Assistant Secretary, DOE-EM Karen Wiemelt, Senior Vice President and General Manager, Jacobs James Taylor, General Manager, Environmental, Bechtel Greg Meyer, Senior Vice President, Fluor Mark Whitney, Executive Vice President and General Manager, Amentum Billy Morrison, President and CEO, Veolia
5:00pm	ADJOURN

FRIDAY, SEPTEMBER 10, 2021

7:00am – 8:00am	Registration and Continental Breakfast
8:00am – 8:30am	Legislative Challenges and Opportunities for the EM Program Rep. Chuck Fleischmann (R-Tenn.), Chairman, House Nuclear Cleanup Caucus (Invited)
8:30am – 9:30am	Roundtable: The Future of Disposal Moderator: Christine Gelles, Senior Vice President for Operations, Longenecker & Associates Mark Gilbertson, Associate Principal Deputy Assistant Secretary for Regulatory and Policy Affairs, DOE-EM Jay Mullis, Manager, Oak Ridge Office of Environmental Management, DOE-EM Kara Colton, Director of Nuclear Policy, ECA Additional speakers TBD
9:30am – 10:00am	COFFEE BREAK

10:00am – 11:00am	The Future of the EM Workforce Moderator: Kristen Ellis , Acting Director for Regulatory Intergovernmental and Stakeholder Engagement, DOE-EM Stuart MacVean , President and CEO, Savannah River Nuclear Solutions Nicole Nelson-Jean , Associate Principal Deputy Assistant Secretary for Field Operations, DOE-EM Jennifer Jean Kropke , Director of Energy Jobs, DOE Kim Lebak , President, N3B Los Alamos
11:00am – 12:00pm	Roundtable: DOE Field Office Managers Moderator: ECA Speaker Jay Mullis , Manager, Oak Ridge Office of Environmental Management, DOE-EM Robert Edwards , Manager, Portsmouth Paducah Project Office Connie Flohr , Manager, EM Idaho Operations Office, DOE Reinhard Knerr , Carlsbad Operations Office, DOE Michael Budney , Manager, Savannah River Site Operations Office, DOE-EM Brian Vance , Manager, Office of River Protection/ Richland Operations Office, DOE-EM
12:00pm – 1:00pm	LUNCH
1:00pm – 2:00pm	Congressional Staff Perspective Speakers TBD
2:00pm – 3:00pm	Entering a New Era for Hanford Tank Waste Brian Vance , Manager, Office of River Protection/Richland Operations Office Josh Eschenberg , President, Washington River Protection Solutions Val McCain , Project Manager, Bechtel-WTP David Reeploeg , Executive Director, Hanford Communities
3:00pm	ADJOURN



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Items - Approval

Core Focus Area I - Promote Financial Stability & Operational Effectiveness

Subject:

Appointment to the Board of Adjustment: Justin Raffa

Department:
City Attorney

Ordinance/Resolution Number:

Document Type:
General Business Item

Recommended Motion:

Appoint Justin Raffa to Position No. 5 on the Board of Adjustment.

Summary:

Board of Adjustment Position No. 5 was vacated by Mr. Michael Simpson on May 11, 2021 via resignation. Planning Manager Stevens reviewed the application packet and qualifications for Mr. Raffa and is recommending appointment.

Application materials are on file in the City Clerk's Office.

Fiscal Impact: None.

Attachments:

I. Board of Adjustment - Recommendation



BOARD OF ADJUSTMENT

MEMORANDUM

TO: City Council

THROUGH: Jennifer Rogers, Richland City Clerk

FROM: Mike Stevens, Planning Manager

DATE: June 22, 2021

SUBJECT: Board of Adjustment Vacancy

On June 22, 2021 I reviewed the application and qualifications for Justin Raffa, candidate for the Board of Adjustment position vacated by Michael Simpson.

The candidate recommended to fill the vacancy is:

Position #5:

Vacated by:

Michael Simpson

Selected Candidate:

Justin Raffa

If you have any questions, please feel free to contact me.

Mike Stevens
Planning Manager



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Items - Approval

Core Focus Area I - Promote Financial Stability & Operational Effectiveness

Subject:

Appointment to the Utility Advisory Committee: Dave Larkin

Department:
City Attorney

Ordinance/Resolution Number:

Document Type:
General Business Item

Recommended Motion:

Approve the appointment of Mr. Dave Larkin to Position No. 7.

Summary:

Utility Advisory Committee vacancy Position No. 7 was vacated by Ms. Amy Anderson on April 27, 2021 via resignation. UAC interview panel is recommending the appointment of Mr. Dave Larkin to Position No.7. The unexpired term for Position No. 7 will commence on July 7, 2021 and will end September 30, 2022.

Candidate application information is on file in the City Clerk's Office.

Fiscal Impact: None.

Attachments:

- I. Utility Advisory Committee Recommendation Memo



MEMORANDUM

TO: City Council

FROM: Clint Whitney, Energy Services Director
Dan Porter, Utility Advisory Committee Chair

THROUGH: Jon Amundson, Interim City Manager

DATE: June 25, 2021

SUBJECT: Utility Advisory Committee Vacant Position Recommendation

The Utility Advisory Committee (UAC) Position No. 7 was vacated by Amy Anderson in April 2021. A total of six (6) application packets were received as a result of advertising for the vacancy.

Chair Dan Porter, Council Liaison Lemley, and Staff Liaison Whitney interviewed multiple candidates and recommend David Larkin for Position No. 7. Mr. Larkin had previously served a total of fifteen (15) years on the Utility Advisory Committee and his combination of knowledge, experience, and desire to serve lead the interview panel to this decision.

Candidate applications and resumes are on file in the City Clerk's Office.



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Items of Business

Core Focus Area 2 - Manage & Maintain Infrastructure & Facilities

Subject:

Resolution No. 72-21, Authorizing Award of Bid to Sierra Electric, Inc. for the Traffic Signal Systemic Safety Upgrades Project

Department:
Public Works

Ordinance/Resolution Number:
72-21

Document Type:
Resolution

Recommended Motion:

Adopt Resolution No. 72-21, authorizing the City Manager to sign and execute a construction contract with Sierra Electric, Inc. for the Traffic Signal Systemic Safety Upgrades project.

Summary:

The 2020-2025 Capital Improvement Plan and the 2021-2026 Transportation Improvement Program each include a project titled Traffic Signal Systemic Safety Upgrades (the "Project"). This Project is designed to upgrade traffic signal equipment throughout the City, thereby providing improved functionality at signals and making travel more efficient and safe through a combination of enhanced visibility and electronic controls.

All project development and design work to advance the Project to construction is complete. This project is funded primarily through a federal safety grant program, making it subject to federal disadvantaged business participation requirements. The project's bid documents were structured to include several additive alternates to expand the scope beyond the capacity of the grant. The additives would upgrade accessory items at intersections such as street name signs. Bids were recently solicited in accordance with the City's purchasing policies, and one (1) bid was received and opened on May 25, 2021, submitted by Sierra Electric, Inc. Sierra Electric, Inc.'s bid constrains the City's ability to award all of the additive alternates due to compliance with the federal requirements. For this reason, staff is recommending award of the base bid and additive alternates no.'s 1 - 3. Staff recommends that authority be granted to add portions of the additive alternate no. 4 by change order if contract compliance can be achieved.

The total bid, including additive alternatives, was approximately thirty-five percent (35%) above the engineer's estimate. Staff analysis concludes that while the bid prices are higher than anticipated, the prices reflect the impacts on material availability and pricing due to the pandemic. Staff does not believe the City will achieve a better value by rebidding this work.

The Washington State Department of Transportation, who is providing grant funds for the vast majority of project expenses, has increased the funds available for this Project. In addition, through approval of Ordinance No. 14-21, City Council has added adequate funding to enable inclusion of the additive alternatives in the project scope. With these additional funds in place, staff recommends award of the project to Sierra Electric, Inc. through adoption of Resolution No. 72-21.

Fiscal Impact:

The total approved project budget is \$1,126,986. After the design work, which is completed, there is \$1,099,914 unspent in that budget of which \$886,121 are grant funds. The estimate costs for the grant portion of the project is \$856,712, which includes construction, construction management and construction contingency. The City funded portion of the bid award totals \$189,302 and there is \$200,000 in available budget capacity.

Attachments:

1. Resolution No. 72-21
2. 21-0045 - Traffic Signal Systemic Safety Upgrades - Bid Tab
3. 21-0045 - Traffic System Systemic Safety Upgrades - Vicinity Map

RESOLUTION NO. 72-21

A RESOLUTION of the City of Richland authorizing the award of bid to Sierra Electric, Inc. for the Traffic Signal Systemic Safety Upgrades project.

WHEREAS, the 2020–2025 Capital Improvement Plan (CIP) and the 2021-2026 Transportation Improvement Program (TIP) both include a project entitled Traffic Signal Systemic Safety Upgrades (the “Project”); and

WHEREAS, the Project is designed to upgrade traffic signal equipment throughout the City, thereby providing improved functionality at signals and making travel more efficient and safe through a combination of enhanced visibility and electronic controls; and

WHEREAS, all project development and design work to advance the Project to construction is complete; and

WHEREAS, the project bid documents were structured to include several additive alternates to expand the scope beyond the capacity of the grant funding the majority of project costs;

WHEREAS, the Project, which is mostly funding through a federal safety grant program, is subject to federal disadvantaged business participation requirements; and

WHEREAS, bids were solicited in accordance with the City’s purchasing policies, with one (1) bid received and opened on May 25, 2021, submitted by Sierra Electric, Inc.; and

WHEREAS, Sierra Electric, Inc.’s bid constrains the City’s ability to award all of the additive alternates due to compliance with the federal disadvantaged business participation requirements; and

WHEREAS, Richland City Council supplemented the project budget through approval of Ordinance No. 14-21, making it adequate to complete the Project using the lowest responsible bid, including all additive alternates; and

WHEREAS, the City’s best interests are served by completing the Project in accordance with the Capital Improvement Plan, Transportation Improvement Program, project design and lowest responsible bid.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the City Manager is authorized to sign and execute a construction contract with Sierra Electric, Inc. in the amount of \$868,208.00, to include Schedule A – Base Bid and Additive Nos. 1 – 3, and to execute change orders, including that portion of Additive No. 4 that can

be completed while remaining compliant with the grant funding requirements, in an aggregate amount not to exceed \$175,000 as needed to fulfill the Project's intent.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 6th day of July, 2021.

Ryan Lukson, Mayor

Attest:

Approved as to form:

Jennifer Rogers, City Clerk

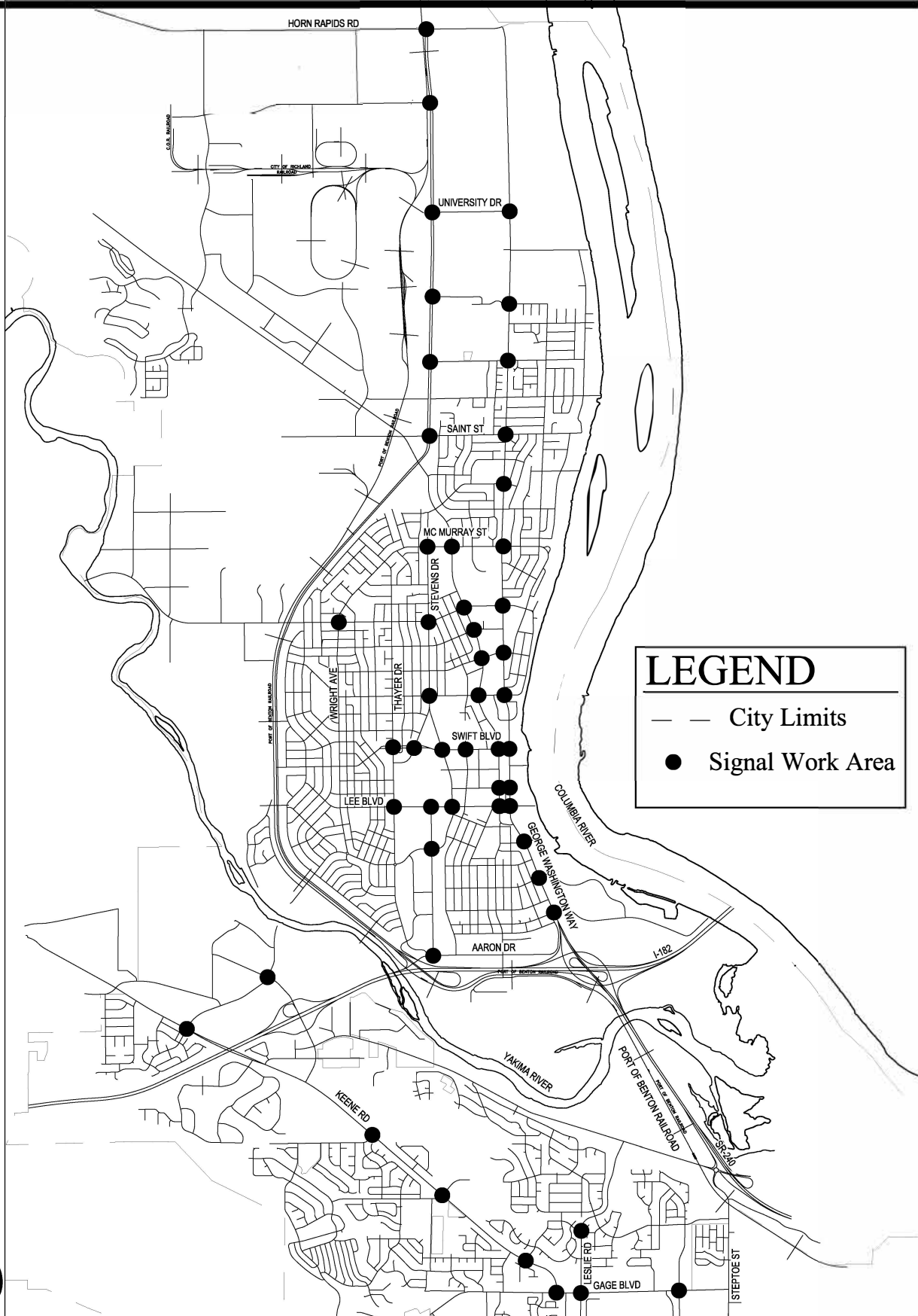
Heather Kintzley, City Attorney

City of Richland

DATE BIDS OPENED: May 25, 2021	ITB # 21-0045
TRAFFIC SIGNAL SYSTEMIC SAFETY UPGRADES	

				ENGINEER'S ESTIMATE		SIERRA ELECTRIC, INC PASCO, WA			
Item	Description	Qty	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
	SCHEDULE A - BASE BID								
1	Mobilization.	1	LS	\$30,000.00	30,000.00	22,000.00	22,000.00		-
2	SPCC plan.	1	LS	1,000.00	1,000.00	500.00	500.00		-
3	Project temporary traffic control.	1	LS	25,000.00	25,000.00	56,260.00	56,260.00		-
4	Roadway survey.	1	LS	2,000.00	2,000.00	1,000.00	1,000.00		-
5	Record drawing (minimum bid \$500).	1	LS	1,000.00	1,000.00	500.00	500.00		-
6	Site restoration.	1	LS	3,000.00	3,000.00	1,200.00	1,200.00		-
7	Install retroreflective backplate, 3-section.	425	EA	225.00	95,625.00	364.00	154,700.00		-
8	Install retroreflective backplate, 4-section.	4	EA	300.00	1,200.00	498.00	1,992.00		-
9	Install 3-section signal head, complete with mount & conductors,	63	EA	1,500.00	94,500.00	1,879.00	118,377.00		-
10	Remove signal head & sign.	42	EA	125.00	5,250.00	110.00	4,620.00		-
11	Install lane control sign.	43	EA	350.00	15,050.00	750.00	32,250.00		-
12	New 3-section signal head, complete with mount.	61	EA	1,200.00	73,200.00	1,470.00	89,670.00		-
13	New 3-section signal head on Type 1 pole, complete with mount.	6	EA	1,100.00	6,600.00	1,186.00	7,116.00		-
14	Relocate signal head on mast arm.	26	EA	300.00	7,800.00	569.00	14,794.00		-
15	Install countdown pedestrian signal module.	135	EA	300.00	40,500.00	266.00	35,910.00		-
16	Install APS pedestrian pushbutton.	108	EA	850.00	91,800.00	1,007.00	108,756.00		-
17	Install custom 2-button pushbutton mount.	5	EA	770.00	3,850.00	326.00	1,630.00		-
18	Install & wire new right-turn signal head.	3	EA	2,000.00	6,000.00	2,062.00	6,186.00		-
19	Adjust & plumb signal head.	13	EA	150.00	1,950.00	225.00	2,925.00		-
20	Adjust video detection camera location.	1	EA	150.00	150.00	390.00	390.00		-
21	Adjust preemption device location.	2	EA	150.00	300.00	543.00	1,086.00		-
22	Install temporary signal revision signs.	53	EA	250.00	13,250.00	680.00	36,040.00		-
23	Remove Type III mast arm & equipment.	2	EA	2,000.00	4,000.00	2,275.00	4,550.00		-
24	Install new mast arm ole & base.	2	EA	25,000.00	50,000.00	18,630.00	37,260.00		-
25	Training.	400	HR	5.00	2,000.00	5.00	2,000.00		-
SCHEDULE A - BASE BID SUBTOTAL					\$575,025.00		\$741,712.00		\$0.00
0% SALES TAX					-		-		-
SCHEDULE A - BASE BID TOTAL					\$575,025.00		\$741,712.00		\$0.00
	ADDITIVE 1 (NOPARTICIPATING FUNDS)								
ADD1-1	Mobilization (this schedule only).	1	LS	\$3,500.00	3,500.00	1,200.00	1,200.00		-
ADD1-2	Project temporary traffic control (this schedule only).	1	LS	8,000.00	8,000.00	2,840.00	2,840.00		-

				ENGINEER'S ESTIMATE		SIERRA ELECTRIC, INC PASCO, WA			
Item	Description	Qty	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
ADD1-3	Install new luminaire.	5	EA	750.00	3,750.00	1,100.00	5,500.00		-
ADD1-4	Install new video detection control unit.	1	EA	5,000.00	5,000.00	3,750.00	3,750.00		-
ADD1-5	Remove existing video camera.	6	EA	125.00	750.00	160.00	960.00		-
ADD1-6	Install new video detection camera.	4	EA	5,500.00	22,000.00	6,282.00	25,128.00		-
ADDITIVE 1 (NOPARTICIPATING FUNDS) SUBTOTAL					\$43,000.00		\$39,378.00		\$0.00
0% SALES TAX					-		-		-
ADDITIVE 1 (NOPARTICIPATING FUNDS) TOTAL					\$43,000.00		\$39,378.00		\$0.00
ADDITIVE 2 (NOPARTICIPATING FUNDS)									
ADD2-1	Install street name signs (Construction Note 21).	42	EA	\$500.00	21,000.00	1,013.00	42,546.00		-
ADDITIVE 2 (NOPARTICIPATING FUNDS) SUBTOTAL					\$21,000.00		\$42,546.00		\$0.00
0% SALES TAX					-		-		-
ADDITIVE 2 (NOPARTICIPATING FUNDS) TOTAL					\$21,000.00		\$42,546.00		\$0.00
ADDITIVE 3 (NOPARTICIPATING FUNDS)									
ADD3-1	Install street name signs (Construction Note 22).	44	EA	\$500.00	22,000.00	1,013.00	44,572.00		-
ADDITIVE 3 (NOPARTICIPATING FUNDS) SUBTOTAL					\$22,000.00		\$44,572.00		\$0.00
0% SALES TAX					-		-		-
ADDITIVE 3 (NOPARTICIPATING FUNDS) TOTAL					\$22,000.00		\$44,572.00		\$0.00
ADDITIVE 4 (NOPARTICIPATING FUNDS)									
ADD4-1	Install street name signs (Construction Note 23).	62	EA	\$500.00	31,000.00	1,013.00	62,806.00		-
ADDITIVE 4 (NOPARTICIPATING FUNDS) SUBTOTAL					\$31,000.00		\$62,806.00		\$0.00
0% SALES TAX					-		-		-
ADDITIVE 4 (NOPARTICIPATING FUNDS) TOTAL					\$31,000.00		\$62,806.00		\$0.00
SCHEDULE A - BASE BID					\$575,025.00		\$741,712.00		\$0.00
ADDITIVE 1 (NOPARTICIPATING FUNDS)					43,000.00		39,378.00		0.00
ADDITIVE 2 (NOPARTICIPATING FUNDS)					21,000.00		42,546.00		0.00
ADDITIVE 3 (NOPARTICIPATING FUNDS)					22,000.00		44,572.00		0.00
ADDITIVE 4 (NOPARTICIPATING FUNDS)					31,000.00		62,806.00		0.00
GRAND TOTAL					\$692,025.00		\$931,014.00		\$0.00



DATE: 4-20-2021
 DRAWN BY: [blank]
 SCALE: NONE
 CAD DWG: [blank]

CITY OF RICHLAND

TRAFFIC SIGNAL SYSTEMIC SAFETY PROJECT

VICINITY MAP



COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Items of Business

Core Focus Area 3 - Increase Economic Vitality

Subject:

Resolution No. 84-21, Accepting a Request for Annexation (Brantingham)

Department:

Development Services

Ordinance/Resolution Number:

84-21

Document Type:

Resolution

Recommended Motion:

Summary:

Collectively, the owners of Lots 1 - 8 of Badger Mountain Estates have submitted a letter requesting annexation into the City of their properties located at 1560, 1570, 1600, 1620, 1640, 1650 and 1660 Brantingham Road.

City Council is required by state law to meet with the annexation proponent(s) to discuss the merits of the request during a regular city council meeting. Adoption of Resolution No. 84-21 authorizes the property owner(s) to formally submit a petition/application to the City's Development Services Department to officially begin the annexation process, and directs the Richland Planning Commission to conduct a public hearing to determine the appropriate zoning classification(s) for the site prior to returning the item to City Council for further review and processing.

Staff recommends adoption of Resolution No. 84-21.

Fiscal Impact:

The newly annexed area will be required to pay any LID's and its share of city taxes, etc. that it had when it was unincorporated.

Attachments:

1. Resolution No. 84-21
2. BMEA Annexation Application Rev 1
3. BMEA map

RESOLUTION NO. 84-21

A RESOLUTION of the City of Richland accepting a request for annexation of Lots 1-8 of Badger Mountain Estates consisting of approximately 12 acres and located at 1560 Brantingham Road, 1570 Brantingham Road, 1600 Brantingham Road, 1620 Brantingham Road, 1640 Brantingham Road, 1650 Brantingham Road and 1660 Brantingham Road in Section 26, Township 9 North, Range 28 East W.M., Benton County, Washington.

WHEREAS, the City received a written request for annexation of properties owned by Joseph & Colleen Lane (1560 Brantingham Road.), Wayne & Sue Flaten (1570 Brantingham Road), Mark & Barbara Buckmaster (1600 Brantingham Road), Eric Van Mason (1620 Brantingham Road), Jonathan Guymon (1640 Brantingham Road), Dustin Gillespie (1650 Brantingham Road) and Daniel & Claudia Becker (1660 Brantingham Road); and

WHEREAS, on June 15, 2021, Richland City Council was presented with the request for annexation and passed Resolution No. 73-21, establishing July 6, 2021 as the date for Council to meet with the proponents of the annexation; and

WHEREAS, as required by RCW 35.13.125, Richland City Council met with the annexation proponents on July 6, 2021 and reviewed the proposed annexation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland as follows:

Section 1. The City of Richland hereby accepts the request for annexation subject to the following conditions:

1. That the annexation be accepted as proposed.
2. That simultaneous adoption of the City's Comprehensive Plan for the proposed annexation is required.
3. That the City requires the assumption of an appropriate share of all existing City indebtedness by the area to be annexed.

Section 2. The Richland Planning Commission is hereby directed to review the proposal and forward a recommendation to City Council as to the most appropriate zoning designation(s) for the area proposed for annexation.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 6th day of July, 2021.

Ryan Lukson, Mayor

Attest:

Approved as to form:

Jennifer Rogers, City Clerk

Heather Kintzley, City Attorney



**City of Richland
Development Services**

625 Swift Blvd. MS-35
Richland, WA 99352
☎ (509) 942-7794
📠 (509) 942-7764

Application for Annexation

Note: A Pre-Application meeting is required prior to submittal of an application.

PROPERTY OWNER INFORMATION

☐ Contact Person

Owner: Badger Mountain Estates Association (BMEA), Owners specified in attachment and letter

Address: Brantingham RD

Phone: see letter

Email: see letter

APPLICANT INFORMATION (If different)

☒ Contact Person

Company:

UBI#

Contact: Eric Van Mason (BMEA Vice President)

Address: 1620 Brantingham RD

Phone: 509-713-0457

Email: eric.vanmason@gmail.com

DESCRIPTION OF REQUEST

Annexation request associated with agreement with RP Development and P&R construction regarding provision of City utilities to BMEA property owners per preliminary plat approval for Marcello Estates (City Counsel Resolution No. 39-19. See condition No. 32)

PROPERTY INFORMATION

Parcel #: multiple parcels, see attached descriptions

Legal Description: attached

Current Comp. Plan: LD residential

Requested Zoning: SAG

Size of Property: approx 1.5 acres each

Domestic Water Supply: ☐ City ☒ Private Well

Sewage Disposal: ☐ City ☒ Septic

Irrigation Source: ☐ City ☐ Private Well ☐ Columbia Irrig. District ☒ Kennewick Irrig. District ☐ BMID

APPLICATION MUST INCLUDE

1. Completed application and filing fee
2. A "Notice of Intent" form requesting annexation to the City of Richland
3. Full legal description of the proposed annexation area
4. A map showing all of the following: general vicinity of proposed annexation in relation to the City of Richland, the proposed boundaries of the annexation, and all public roads near the annexation area
5. Other information as determined by the Administrator

ANSWER QUESTIONS BELOW AS COMPLETELY AS POSSIBLE – USE ADDITIONAL SHEET(S) IF NECESSARY

Why are you requesting annexation into the City of Richland?

In order to receive City utilities per agreement with RP Development and P&R construction (City Counsel Resolution No. 39-19. See condition No. 32)

What use, building or structure is intended for the property?
Residential and home based business use

What changes have occurred in the area that justify the requested annexation?
Proposed development of Marcello Estates adjacent to BMW EA parcels

Are there any other properties in your neighborhood that could be part of your annexation request? If so, have you spoken to the owners about joining your annexation request?
No.

I authorize employees and officials of the City of Richland the right to enter and remain on the property in question to determine whether a permit should be issued and whether special conditions should be placed on any issued permit. I have the legal authority to grant such access to the property in question.

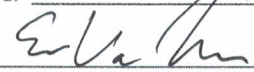
I also acknowledge that if a permit is issued for land development activities, no terms of the permit can be violated without further approval by the permitting entity. I understand that the granting of a permit does not authorize anyone to violate in any way any federal, state, or local law/regulation pertaining to development activities associated with a permit.

I hereby certify under penalty of perjury under the laws of the State of Washington that the following is true and correct:

1. I have read and examined this permit application and have documented all applicable requirements on the submittals.
2. The information provided in this application contains no misstatement of fact.
3. I am the owner(s), the authorized agent(s) of the owner(s) of the above referenced property, or I am currently a licensed contractor or specialty contractor under Chapter 18.27 RCW or I am exempt from the requirements of the Chapter 18.27 RCW.
4. I understand this permit is subject to all other local, state, and federal regulations.

Note: This application will not be processed unless the above certification is endorsed by an authorized agent of the owner(s) of the property in question and/or the owner(s) themselves. If the City of Richland has reason to believe that erroneous information has been supplied by an authorized agent of the owner(s) of the property in question and/or by the owner(s) themselves, processing of the application may be suspended.

Applicant Printed Name: Eric Van Mason, BMEA

Applicant Signature:  Date 5/3/2021

Owner	Mark and Barbara Buckmaster
Address	1600 Brantingham Rd Richland, WA 99352
Phone	509-627-1321
Email	markbuckmaster@frontier.com
Parcel Number	126983020000003
Legal Description	BADGER MOUNTAIN ESTATES:LOT 3: CERT OF WATER RIGHT AUT#87-16324 10/15/87 COMMUNITY WELL AGREEMENT 1/8/87: VAC OF WEEL CONTROL AGREEMENT 1/8/87: PROTECTIVE COVENANTS 4/20/73

Owner	Wayne and Sue Flaten
Address	1570 Brantingham Rd Richland, WA 99352
Phone	509-627-4810
Email	Flatenwlsk345@gmail.com
Parcel Number	126983020000002
Legal Description	BADGER MOUNTAIN ESTATES:LOT 2: CERT OF WATER RIGHT AUD#16324 10/15/87 COMMUNITY WELL AGREEMENT 1/8/87: VAC OF WELL CONTROL AGR 1/8/87 PROTECTIVE COVENANTS 4/20/73

Owner	Joe and Colleen Lane
Address	1560 Brantingham Rd Richland, WA 99352
Phone	509-438-9344
Email	lanefamily7@gmail.com
Parcel Number	126983020000019
Legal Description	BADGER MOUNTAIN ESTATES:LOT 1: CERT OF WATER RIGHT AUD#87-16324 10/15/87 COMMUNITY WELL AGREEMENT 1/8/87: VAC OF WELL CONTROL ESMT 1/8/87 & PROTECTIVE COVENANTS 4/20/73

Owner	Eric Van Mason
Address	1620 Brantingham Rd Richland, WA 99352
Phone	509-374-4005
Email	Eric.vanmason@gmail.com
Parcel Number	126983020000023
Legal Description	SECTION 26, TOWNSHIP 9 NORTH, RANGE 28 EAST, QUARTER SW: BADGER MOUNTAIN ESTATES:LOT 4: CERT OF WATER RIGHT 10/15/87 COMMUNITY WELL AGREEMENT 1/8/87: VAC OF WELL CONTROL AGREEMENT 1/8/87 PROTECTIVE COVENANTS 4/20/73 TOGETHER WITH BADGER MOUNTAIN ESTATES:LOT 5: COMMUNITY WELL AGREEMENT 1/8/87: VAC OF WELL CONTROL AGR 1/8/87 PROTECTIVE COVENANTS 4/20/73 (TAX CONSOLIDATION PER CONSOLIDATION FORM, DATED 12/31/2014)

Owner	Jonathan Guymon
Address	1640 Brantingham Rd Richland, WA 99352
Phone	509-947-4794
Email	jwguymon@gmail.com
Parcel Number	126983020000006
Legal Description	BADGER MOUNTAIN ESTATES:LOT 6: CERT OF WATER RIGHT AUD#16324 10/15/87 COMMUNITY WELL AGREEMENT 1/8/87: VAC OF WELL CONTROL AGR 1/8/87 PROTECTIVE COVENANTS 4/20/73

Owner	Dustin Gillespie
Address	<i>Undetermined</i> Brantingham Road
Phone	509-440-2030
Email	dustin@gillespiehomesnw.com
Parcel Number	126983020000024
Legal Description	BADGER MOUNTAIN ESTATES:LOT 7: CERT OF WATER RIGHT AUD#16324 10/15/87 COMMUNITY WELL

	AGREEMENT 1/8/87: VAC OF WELL CONTROL AGR 1/8/87 PROTECTIVE COVENANTS 4/20/73 (SEGREGATIONS FOR TAX PURPOSES FORM DATED 6/8/2020)
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Owner	Daniel and Claudia Becker
Address	1660 Brantingham Rd Richland, WA 99352
Phone	509-627-2464
Email	dncbecker@frontier.com
Parcel Number	126983020000025
Legal Description	BADGER MOUNTAIN ESTATES:LOT 8: CERT OF WATER RIGHT AUD#16324 10/15/87 COMMUNITY WELL AGREEMENT 1/8/87: VAC OF WELL CONTROL AGR 1/8/87 PROTECTIVE COVENANTS 4/20/73 (SEGREGATIONS FOR TAX PURPOSES FORM DATED 6/8/2020)

Badger Mountain Estates Association (BMEA)

Brantingham Road, Richland, WA

Mr. Mike Stevens

625 Swift Blvd, MS-35

Richland, WA 99352

Mr. Stevens,

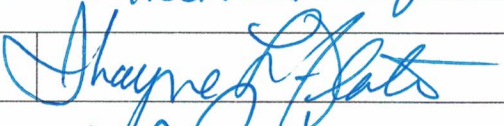
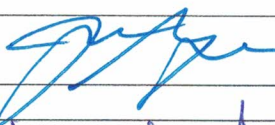
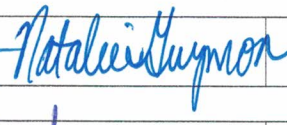
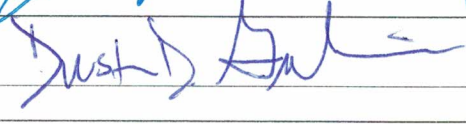
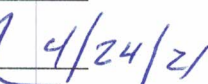
Pursuant to agreements between Badger Mountain Estates Association (BMEA) and RP Development, and the attached application, the below signed property owners request annexation into the City of Richland for all BMEA parcels.

BMEA expects that annexation will allow for provision of City of Richland utilities and services to the annexed properties with further development of the Marcello Estates project.

If you have any questions please contact Eric Van Mason at 713-0457 or Jon Guymon at 947-4794.

Sincerely,

BMEA parcel owners

Owner	Signature	Date
Joe and Coleen Lane		4/24/21
Wayne and Sue Flaten		4/25/21
Mark and Barbara Buckmaster		4/24/21
Eric and Gloria Van Mason		4/24/21
Jonathan and Natalie Guymon	 	4/24/21
Dustin Gillespie		4/30/21
Dan and Claudia Becker	 	4/24/21





COUNCIL AGENDA ITEM COVERSHEET

Council Date: 7/6/2021

Agenda Category: Items of Business

Core Focus Area I - Promote Financial Stability & Operational Effectiveness

Subject:

In-Person Meetings for Boards, Commissions & Committees (Discussion)

Department:
City Attorney

Ordinance/Resolution Number:

Document Type:
General Business Item

Recommended Motion:
None.

Summary:

On June 30 and July 1, 2021, Governor Inslee toured the State and hosted three (3) community celebrations to acknowledge and celebrate the end of current COVID restrictions. Governor Inslee stated in a press release that "effective 12:01 AM on June 30, all industry sectors previously covered by guidance in the *Healthy Washington – Roadmap to Recovery* or the *Safe Start Reopening Plan* may return to usual capacity and operations, with limited exceptions for large indoor events (any event with more than 10,000 simultaneous participants in an indoor, enclosed space). Tonight's meeting is an opportunity to discuss a return to in-person meetings for Richland's boards, commissions and committees.

Governor Inslee envisions a continued transition to a post-pandemic environment, and as such, has yet to rescind Proclamation 20-28, as amended, which requires meetings subject to the Open Public Meetings Act (OPMA) to include a remote participation component. The City has successfully accommodated remote participation for both the public and city participants since March of 2020. An in-person component has been allowed since mid-January 2021, but was not implemented due to the masking and social distancing requirements that would compromise the quality of the meeting and hinder communication between participants.

With the recent "reopening" of the State on June 30, 2021, the following now applies to governing bodies of public agencies opting to host in-person public meetings under the OPMA, as permitted per Proclamation 20-28: 1) no restrictions on capacity; 2) no physical distancing requirements; 3) follow current applicable face covering requirements as outlined in Proclamation 20-25, et seq., Secretary of Health Order 20-03.2, and LNI Publication F414-179 (i.e., masking for unvaccinated individuals).

Richland's boards, commissions and committees have collectively expressed their readiness to begin meeting in person, and are seeking guidance from Council. While the City is required for the foreseeable future to continue to offer a remote participation component for all public meetings, in-person meetings are now allowed with minimal restrictions (masking requirements for unvaccinated individuals only). Further, technology has been added to Council Chambers to achieve high-quality, remote participation during certain in-person meetings. For others, a simple call-in line will suffice to achieve compliance with Governor Inslee's post-pandemic public meeting expectations.

No formal action is required. Staff seeks Council's input on reintroducing in-person meetings for some or all of Richland's various boards, commissions and committees.

Fiscal Impact: None.

Attachments: