

**CITY OF CLARKSTON
CITY COUNCIL AGENDA
829 5th Street
MONDAY, MARCH 11, 2019**

- 1. CALL TO ORDER: 7:00 P.M.**
- 2. PLEDGE OF ALLEGIANCE:**
- 3. AGENDA CHANGES:**
- 4. APPROVAL OF MINUTES: February 25, 2019 Regular Meeting**

- 5. COMMUNICATIONS:**
 - A. From the Public:**
 - B. From the Mayor:**
 - C. From Staff or Employees:**

- 6. COMMITTEE REPORTS:**
 - A. Finance/Admin – Audit Report on Current Bills – March 11**
 - B. Public Safety – March 5**
 - C. Public Works – March 5**
 - D. Outside Organizations – Health District, EMS Council, Valley Vision, PTBA, SEWEDA, MPO, Regional Stormwater, Lodging Tax Advisory**

- 7. UNFINISHED BUSINESS:**
 - A. Consideration of Petition for Alley Vacation (Public Works)**

- 8. CONSENT AGENDA:**
 - A. Resolution 2019-03, Setting Date for Alley Vacation Hearing (Public Works)**
 - B. Authorization to appoint Appraisal for Alley Vacation (Public Works)**
 - C. Authorization to appoint Survey for Alley Vacation (Public Works)**
 - D. Agreement for Professional Services – WWTP Filter Engineering (Public Works)**
 - E. Intergovernmental Cooperative Agreement – Southway Bridge (Public Works)**

- 9. NEW BUSINESS: None**

- 10. COUNCIL COMMENTS:**

- 11. QUESTIONS FROM THE PRESS:**

- 12. EXECUTIVE SESSION: Negotiations**

- 13. ADJOURN:**

Time limits for addressing the council have been established by council direction. Presentations are limited to 15 minutes and public comments are limited to 3 minutes per person, per topic.

CLARKSTON CITY COUNCIL MINUTES
February 25, 2019

ROLL CALL: Russ Evans, Pat Holman, Belinda Larsen, Skate Pierce, Joel Profitt, John Murray and Melyssa Andrews.

STAFF: Chief Hastings, Chief Cooper, PWD Poole, Clerk Austin.

AGENDA CHANGES: None

APPROVAL OF MINUTES: Minutes of the February 11, 2018 Regular Meeting were approved as distributed.

COMMUNICATIONS:

A. **From the Public:** None

B. **From Mayor:** Mayor Lawrence advised Council that the City received a thank-you card from Valley Vision for our 2019 contribution. Senator Schoessler was the only elected official that responded to the Legislative Agenda that the City submitted. The Senator's office advised that a copy of the agenda was placed on his desk for review.

C. **From Staff or Employees:** None

COMMITTEE REPORTS:

Finance/Admin: Councilmember Murray reported that the Committee reviewed and approved the bills for payment. Total expenditures for the February 25, 2019 period of \$188,906.56. MOTION BY ANDREWS/EVANS to approve the bills as read. Motion Carried

Public Safety: Councilmember Larsen reported on the February 19th meeting. The first discussion revolved around fireworks. The public will be welcome to comment at our next Council meeting on the 25th. Letters have been received both pro and con in banning fireworks. Chief Hastings and Councilmember Larsen will be interviewed by Brian Shinn on the radio program Opinion Please on Wednesday, February 20th. Chief Hastings reminded us about "Souppport the Y" on Friday, February 22nd. The cost is \$25 for all-you-can-eat soup made by local police and fire stations along with other local enforcement agencies. Chief Cooper reminded us that the fire department will also be there. He also reminded Chief Hastings that the Clarkston Fire Department won the friendly "tip" competition last year. The lunch begins at 11:00am. The police department received a grant in the amount of \$1000 from the WASPC for a new radar unit. Lewiston may be losing the site that holds the repeater for dispatching services that the City of Clarkston also uses for EMS/Fire radios. Although there is no current cost for us to use this service, if the repeater site needs to be moved, the City will more than likely have to help with relocation costs. Chief Cooper also gave us a revenue summary review for 2018.

Public Works: Did not meet.

Outside Organizations: Councilmember Pierce reported on the Asotin County Health meeting. He advised that Dr. Robert Lutz of Spokane informed the board on current issues in public health such as infectious diseases, food handler permitting, especially with charitable organization that provide food for public consumption. The State has potential legislation that will affect public health. Dr. Lutz discussed vaping issues with high school students, and a county -wide potential syringe exchange. Councilmember Evans reported on the February 14 PTBA meeting. He advised that on Memorial day free passes for area kids will be starting. PTBA will begin advertising the free passes with KLEW in May. There are plans to build a new bus shelter in Asotin. PTBA reported that there were 1361 more riders for January when compared to last year. Evans also attended the Cruise Boat meetings on February 19 for the volunteer greeters, and the Cruise Boat update on February 21. A new ship, the American Song arrives March 29, 2019. This year boats will be coming until end of November. The group is looking for greeters and other volunteers. Those interested can contact Michelle Peters with Visit LC Valley. The group is also looking for vendors or entrepreneurs to provide services to the tourists.

UNFINISHED BUSINESS:

A. Discussion on Fireworks Code (Public Safety) Mayor Lawrence presented the topic for discussion.

1. Communication from the Public:

Sandra Lilligren, University Street
Cindy Mosher, 917 9th Street
Ben Harrington, (Business Owner Pyro Paradise)719 Vista Lewiston
Duane Shears, 920 9th Street
Robert Dunn, 928 9th Street
Shane Harrington, (Firework Sales) Alder Ave Lewiston
Nancy Di Meo, 526 Burns St
Polly Franzen, 1993 Quailridge Ct
Denise Bissell, 526 Monroe Street

Chief Hastings spoke regarding enforcement of the current ordinance. He advised that with the enforcement of the aerial ban in Lewiston, the City began to see an influx of out of the area residents. It is hard to distinguish in the dark if there are illegal fireworks being used. Chief Hastings advised that if there was going to be a change, there are three choices: reducing the times for discharge, banning aerials like Lewiston has now; or a complete ban on all fireworks except commercial displays. He advised that the easiest for the department to enforce would be a complete ban.

Chief Cooper advised that he sympathized with those concerned with noise, and danger to homes and pets. He advised that it was mentioned at Public Safety Committee that we won't give matches to children, but will give them fireworks. In 2018 there were only two firework related responses from the Fire Department. In 2017, there were no responses. A lot depends on the weather. In 2016, there were four responses, in 2015, there were nine responses and in 2014 there were five responses. Chief Cooper said the concerns about smoldering fires on roofs that increases the threat. He advised that he supports the celebration on the 4th of July, but is in favor of a total ban.

Mayor Lawrence reminded Council that any update of the ordinance would take one year to be enacted. The earliest date for change would be July 2020.

Councilmember Larsen spoke regarding enforcing the current ordinance in relation to enforcement of a new law. She advised of letters that had been received from the community. She raised concern that a total ban would cause the fireworks to go elsewhere. She advised that she sympathizes with everyone, but something has to change.

Councilmember Evans commented on the number of people that are coming over from Lewiston to celebrate. He recognized the tradition of the display at Adams field. He advised that any change would not be taking a freedom from individuals. He emphasized respect to neighbors and the community. His concern would be the effect county wide. Mayor advised that the City would like to coordinate with the County and asked Commissioner Shinn to respond from the audience.

Commissioner Shinn advised that three years ago, the County coordinated with City. Although he advised that he could not speak in official capacity for the County, he believes that everyone would like to coordinate again. It would be good to find a common ground. He advised that he can't speak for rest of the County Commission, but he is an advocate for banning aerial fireworks. This still allows for family celebrations. He would like to see whatever change be enacted countywide like the similar ordinances that were passed concurrently before.

Councilmember Holman advised that he is concerned after hearing Chief Cooper. The best thing to do is something that is safe for the City of Clarkston. He advised that the City doesn't want to hear about injuries or death, or a fire like the Lewiston Church. Holman stated that he favored a ban on aerials, with possibly restricting times to the 4th of July and New Year's. He advised the City needs to quit rolling the dice, and do everything we can to be safe.

Councilmember Pierce advised that his preference was limiting the dates to just on the 4th of July. Currently, there is a lot of trash left at the schools, and public places. It is absurd what is left at schools and in streets. He would favor an ordinance that ends discharge of fireworks at midnight on the 4th of July.

Councilmember Andrews advised that she agrees with Pierce. The discharge time is important. She advised that a total ban will not stop people from breaking the ban. She asked if there could be more fines issued for the litter. She advised that she takes her daughter and goes to churches and neighborhoods with five gallon buckets and cleans up the trash. If the City could regulate the litter it might keep everyone satisfied.

Councilmember Murray asked if there could be a place set aside for people to light off fireworks. Perhaps getting the School District to sign off on their property. He advised that he is not sure that they would sign off on that liability, but it might be worth asking.

Mayor Lawrence asked Chief Hastings to respond on regulation of the trash that is left.

Chief Hastings advised that the litter is happening in front of every house, making it impossible to identify who is responsible. Councilmember Andrews asked if volunteers could be solicited to help clean up the trash. PWD Poole advised that it may be a liability for the City if people are in the streets with safety concerns. He advised that there should be public education, "pack it in – pack it out."

Attorney Richardson affirmed that the City should not be coordinating or directing the volunteer effort. Instead it should be a neighborhood effort.

CONSENT AGENDA: None

NEW BUSINESS: None

COUNCIL COMMENTS: Councilmember Proffitt advised that a citizen with a family member that deals with mental health issues had contacted him and wanted to thank the Police Department for how they handled the issues. Councilmember Holman congratulated Clarkston High School Boys' and Girls' Basketball teams for making it to State.

PRESS QUESTIONS: None

EXECUTIVE SESSION: None

ADJOURNMENT:

Meeting adjourned at 8:05 p.m.

Steve Austin, City Clerk

Monika Lawrence, Mayor

Total Fund Expenditures 2/25/19	Ck # 67955-68005	\$49,325.68
Payroll 2/20/19	Ck # 67943-67954	\$139,580.88

Public Safety Meeting 03-05-2019

In attendance: Chief Hastings, Chief Cooper, Pat Holman, Russ Evans, Belinda Larsen

Chief Hastings briefed us on the committee he sits on regarding the homeless population. His committee is working on acquiring money through the state that would, at a future date, provide temporary housing for some qualified individuals. This money will be garnered through some state funding programs but we would need to build up this fund for future use.

At our meeting on the 19th, the jail committee will once again present to us options that they have developed to address our jail overcrowding and funding for these new options.

Next week Officer Martin will head to Seattle for pilots licensing training for drone operation.

Chief Cooper presented us with information regarding fireworks regulations per Washington State. He gave us a brief review of other cities and county's bans and restrictions along with what fireworks are legal and what are illegal in the State of Washington.

We determined what we will recommend to Council regarding fireworks for Council review. Belinda will contact both the Mayor and Attorney Richardson regarding an ordinance and will also reach out to Asotin County Commissioner Brian Shinn with our recommendation.

Petition for Land Vacation

To

City of Clarkston

We the undersign request the city vacate the portions of the alley as shown on "Attachment A" to the adjacent property owners as outlined in CMC 13.24 and RCW 35.79.030. We understand and agree we will pay the costs for appraisal, survey, and appraised value. These costs will be paid to the City of Clarkston 30 days after the appraisal of the property. These costs will be divided proportionally for each property owner. EGSRC Clarkston, LLC has already paid for the survey for their portion of alley.

The adjacent property owners are:

Canna4life, LLC – 721 6th St., Clarkston, WA 99403

Brent W. Wahlberg Jr. – 725 6th St., Clarkston, WA 99403

John A. Pring III – Parking Lot east of Canna4life

Russell A. Ewing – 738 5th St., Clarkston, WA 99403.

EGSRC Clarkston, LLC. – 719 5th St., Clarkston, WA 99403

Neil N. Paasch – 725 5th St., Clarkston, WA 99403



Canna4life, LLC



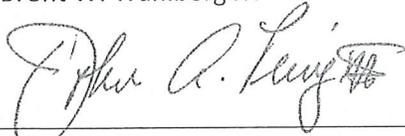
Date



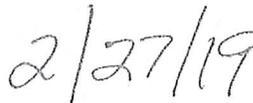
Brent W. Wahlberg Jr.



Date



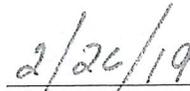
John A. Pring III



Date



Russell A. Ewing



Date



EGSRC Clarkston, LLC.



Date



Neil N. Paasch



Date

RESOLUTION NO. 2019-03

A RESOLUTION OF THE CITY OF CLARKSTON TO SET A HEARING DATE FOR VACATION OF A PORTION OF ALLEY IN BLOCKS 18 AND 19.

WHEREAS, a petition has been filed with the Clerk of the City of Clarkston requesting the vacation of the 700 block alley between Sixth Street and Seventh Street in Blocks 18 and 19; and

WHEREAS, said petition was signed by the owners of more than two-thirds of the property abutting on said alley to be vacated; and

WHEREAS, it is necessary to fix a time for the hearing on the petition to vacate, which shall be more than twenty (20) days but less than sixty (60) days from the date of filing the petition;

NOW THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Clarkston as follows:

That a hearing on said petition for vacation be set for April 8, 2019 at 7:00 p.m. at the Clarkston City Council Chambers, 829 5th Street, Clarkston, WA.

2. That the City Clerk give twenty (20) days notice of pendency of said petition and hearing by a written notice posted in three public places in the city and a like notice in a conspicuous place on the street to be vacated.

ADOPTED this 11th day of March 2019.

Monika Lawrence, Mayor

Steve Austin, City Clerk



City of Clarkston

City Hall: (509) 758-5541 • Police: (509) 758-1680 • Fire: (509) 758-8681 • Fax: (509) 769-6018

829 5th Street • Clarkston, WA 99403 • www.clarkston-wa.com

March 11, 2019

Rudd Appraisals
2901 Perry Ln.
Clarkston, WA 99403

Re: Appraisal of Property
Alley Between 6th St & 5th St. 700 Block

Dear Mr. Rudd,

The City of Clarkston has selected you as the lowest responsive quote for appraisal services per your email dated January 25, 2019. The appraisal work for the alley areas as shown in Attachment "A" will be at the quoted cost of \$1,800.00.

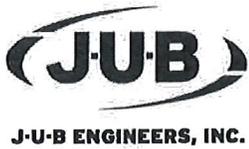
You may proceed with the appraisal work at your earliest convenience.

Respectfully,

Monika Lawrence
Mayor



TREE CITY USA.



J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES

J-U-B Project No.: 23-19-005
 J-U-B Project Manager: ERS

This Agreement entered into and effective this _____ day of February 2019, between City of Clarkston, hereinafter referred to as the "CLIENT" and J-U-B ENGINEERS, Inc., an Idaho corporation, hereinafter referred to as "J-U-B".

WITNESSETH:

WHEREAS the CLIENT intends to: Perform miscellaneous surveying services as requested see attachment 1 hereinafter referred to as the "Project". The Services to be performed by J-U-B are hereinafter referred to as the "Services."

NOW, THEREFORE, the CLIENT and J-U-B, in consideration of their mutual covenants herein, agree as set forth below:

CLIENT INFORMATION AND RESPONSIBILITIES

The CLIENT will provide to J-U-B all criteria and full information as to CLIENT's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards, rules and laws which CLIENT or others will require to be included in the drawings and specifications, and upon which J-U-B can rely for completeness and accuracy.

The CLIENT will furnish to J-U-B all data, documents, and other items in CLIENT's possession, or reasonably obtainable by CLIENT, including, without limitation: 1) borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; 2) appropriate professional interpretations of all of the foregoing; 3) environmental assessment and impact statements; 4) surveys of record, property descriptions, zoning, deeds and other land use restrictions, rules and laws; and 5) other special data or consultations, all of which J-U-B may use and rely upon in performing Services under this Agreement.

The CLIENT will obtain, arrange and pay for all advertisements for bids, permits and licenses, and similar fees and charges required by authorities, and provide all land, easements, rights-of-ways and access necessary for J-U-B's Services and the Project.

In addition, the CLIENT will furnish to J-U-B: _

PROJECT REPRESENTATIVES

The CLIENT and J-U-B hereby designate their authorized representatives to act on their behalf with respect to the Services and responsibilities under this Agreement. The following designated representatives are authorized to receive notices, transmit information, and make decisions regarding the Project and Services on behalf of their respective parties, except as expressly limited herein. These representatives are not authorized to alter or modify the TERMS AND CONDITIONS of this Agreement.

For the CLIENT:

1.	Name	<u>City of Clarkston</u>	Work telephone	<u>(509) 758-1662</u>
	Address	<u>Public Works Director, Kevin Poole, P.E.</u>	Home/cell phone	<u>509-552-0491</u>
		<u>829 5th Street</u>	FAX telephone	_____
		<u>Clarkston, WA 99403</u>	E-mail address	<u>Kevin Poole clarkstonpwd@clarkston-wa.com</u>

For J-U-B:

1.	Name	<u>Ed Spears</u>	Work telephone	<u>(509) 254-6011</u>
	Address	<u>846 6th Street</u>	Cell phone	<u>(208) 892-9583</u>
		<u>Clarkston, WA 99403</u>	FAX telephone	_____
		_____	E-mail address	<u>espears@jub.com</u>

In the event any changes are made to the authorized representatives or other information listed above, the CLIENT and J-U-B agree to furnish each other timely, written notice of such changes.

SERVICES TO BE PERFORMED BY J-U-B ("Services")

J-U-B will perform the Services described as follows (or as described in **Attachment 1**, if provided) in a manner consistent with the applicable standard of care:

J-U-B's services shall be limited to those expressly set forth above, and J-U-B shall have no other obligations, duties, or responsibilities for the Project except as provided in this Agreement.

SCHEDULE OF SERVICES TO BE PERFORMED

J-U-B will perform said Services in accordance with the following schedule (or as described in **Attachment 1**, if provided) in a manner consistent with the applicable standard of care: on a schedule that is mutually agreed upon by both CLIENT and J-U-B ENGINEERS, Inc.

This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by the CLIENT or for delays or other causes beyond J-U-B's control.

BASIS OF FEE

The CLIENT will pay J-U-B for their Services at J-U-B's standard hourly rates and reimbursable expenses as follows (or as described otherwise in **Attachment 1**, if provided): \$. A ten percent administrative fee will be applied to sub-consultant invoices.

Yes *Management Reserve Fund.* If "YES", the CLIENT will establish a management reserve fund of \$_____ to provide the CLIENT's Authorized Representative the flexibility of authorizing additional funds to the Agreement for allowable unforeseen costs or paying J-U-B for Additional Services beyond those defined in this Agreement.
 No

Yes *Retainer.* If "YES", the CLIENT will pay J-U-B a retainer of \$_____ prior to the Notice to Proceed. The retainer will be applied to the final billing(s) at the completion of the Services rendered under the Agreement.
 No

Other work that J-U-B performs in relation to the Project at the written request or acquiescence of the CLIENT, which are not defined as Services, shall be considered "Additional Services" and subject to the express terms and conditions of this Agreement. Unless otherwise agreed, the CLIENT will pay J-U-B for Additional Services on a time and materials basis. Resetting of survey and/or construction stakes shall constitute Additional Services.

File Folder Title: City of Clarkston Alley Vacation

Remarks: _____

The Notice to Proceed, by the CLIENT, verbal or written, or execution of the Agreement shall constitute acceptance of the terms of this Agreement. THE TERMS AND CONDITIONS ON PAGES 3 AND 4, INCLUDING RISK ALLOCATION, ARE PART OF THIS AGREEMENT. THE CLIENT AGREES TO SAID TERMS AND CONDITIONS FOR ALL SERVICES AND ADDITIONAL SERVICES. Special Provisions that modify these TERMS AND CONDITIONS, if any, are included in Attachment 2. All other modifications to these terms and conditions must be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written. These parties represent and acknowledge that they have authority to execute this Agreement.

CLIENT:
City of Clarkston

NAME
Public Works Director, Kevin Poole, P.E.

STREET
829 5th Street Clarkston WA, 99403

CITY / STATE / ZIP CODE

BY (Signature)

NAME / TITLE

BY (Signature)

ADDITIONAL NAME / TITLE

J-U-B ENGINEERS, Inc.:
201 S Jackson Street

STREET
Moscow, ID 83843

CITY / STATE / ZIP CODE

BY (Signature)
Cory R. Baune, Area Manager

NAME / TITLE

Applicable Attachments or Exhibits to this Agreement are indicated as marked.
 Attachment 1 – Scope of Services and/or Schedule and/or Basis of Fee
 Attachment 2 – Special Provisions
 Standard Exhibit A – Construction Phase Services

REV: 1/15

DISTRIBUTION: Accounting; Project File; CLIENT

J-U-B ENGINEERS, Inc. **TERMS AND CONDITIONS**

GENERAL

All J-U-B Services shall be covered by this Agreement. The Services will be performed in accordance with the care and skill ordinarily used by members of the subject profession practicing under like circumstances at the same time and in the same locality. **J-U-B MAKES NO WARRANTY EITHER EXPRESS OR IMPLIED ON BEHALF OF IT OR OTHERS.** Nothing herein shall create a fiduciary duty between the parties.

The CLIENT acknowledges and agrees that requirements governing the Project may be ambiguous and otherwise subject to various and possibly contradictory interpretations and J-U-B is, therefore, only responsible to use its reasonable professional efforts and judgment to interpret such requirements. Accordingly, CLIENT should prepare and plan for clarifications or modifications which may impact both the cost and schedule of the Project.

J-U-B shall not be responsible for acts or omissions of any other party involved in the Project, including but not limited to the following: the failure of CLIENT or a third party to follow J-U-B's recommendations; the means, methods, techniques, sequences or procedures of construction; safety programs and precautions selected by third parties; compliance by CLIENT or third parties with laws, rules, regulations, ordinances, codes, orders or authority; and delays caused by CLIENT or third parties;. CLIENT, therefore, releases and shall indemnify, defend and hold J-U-B harmless from the acts, errors, or omissions of CLIENT or third parties involved in the Project.

J-U-B shall not be required to execute any documents, no matter by whom requested, that would result in J-U-B's having to certify, guarantee or warrant the existence of conditions. CLIENT acknowledges that subsurface conditions can vary widely between adjacent samples and test points, and therefore J-U-B makes no warranty or other representation regarding soil investigations and characterization of subsurface conditions for the Project.

Any sales tax or other tax on the Services rendered under this Agreement, and additional costs due to changes in regulation, shall be paid by the CLIENT.

REUSE OF DOCUMENTS

Documents that may be relied upon by CLIENT as instruments of service under this Agreement are limited to the printed copies (also known as hard copies) that are signed or sealed by J-U-B (including non-vector PDF facsimiles thereof). All printed materials or other communication or information ("Documents") that may be prepared or furnished by J-U-B pursuant to this Agreement are instruments of service with respect to the Project. J-U-B grants CLIENT a limited license to use the Documents on the Project subject to receipt by J-U-B of full payment for all Services related to preparation of the Documents.

Although CLIENT may make and retain copies of Documents for reference, J-U-B shall retain all common law, statutory and other reserved rights, including the copyright thereto, and the same shall not be reused on this Project or any other Project without J-U-B's prior written consent. Submission or distribution of Documents to meet regulatory or permitting requirements, or for similar purposes, in connection with the Project, including but not limited to distribution to contractors or subcontractors for the performance of their work, is not to be construed as publication adversely affecting the reserved rights of J-U-B.

Any reuse without written consent by J-U-B, or without verification or adoption by J-U-B for the specific purpose intended by the reuse, will be at CLIENT's sole risk and without liability or legal exposure to J-U-B. The CLIENT shall release, defend, indemnify, and hold J-U-B harmless from any claims, damages, actions or causes of action, losses, and expenses, including reasonable attorneys' and expert fees, arising out of or resulting from such reuse.

CONSTRUCTION PHASE SERVICES

It is understood and agreed that J-U-B does not have control over, and neither the professional activities of J-U-B nor the presence of J-U-B at the Project Site shall give, J-U-B control over contractor(s) work nor shall J-U-B have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by contractor(s), for safety precautions and programs incident to the work of the contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor(s) furnishing and performing their work or providing any health and safety precautions required by any regulatory agencies. Accordingly, J-U-B does

not guarantee or warrant the performance of the construction contracts by contractor(s), nor assume responsibility of contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

The CLIENT agrees that the general contractor shall be solely responsible for jobsite safety, and CLIENT agrees that this intent shall be set forth in the CLIENT's contract with the general contractor. The CLIENT also agrees that the CLIENT, J-U-B, and J-U-B's subconsultants shall be indemnified by the general contractor in the event of general contractor's failure to assure jobsite safety and shall be made additional insureds under the general contractor's policies of general liability insurance.

If **Standard Exhibit A** – Construction Phase Services is attached, the additional terms contained therein apply to this Agreement.

OPINIONS OF COST AND PROJECT FINANCIAL INFORMATION

CLIENT understands that J-U-B has no control over the cost of labor, materials, equipment or services furnished by others, the contractor(s)' methods of determining prices, nor bidding or market conditions. J-U-B's opinions of probable Project costs and construction, if any, are to be made on the basis of J-U-B's experience, and represent J-U-B's best judgment as a professional engineer, familiar with the construction industry.

CLIENT understands and acknowledges that J-U-B cannot and does not guarantee that proposals, bids or actual Project or construction costs will not vary from opinions of probable cost prepared by J-U-B. J-U-B's Services to modify the Project to bring the construction costs within any limitation established by the CLIENT will be considered Additional Services and paid for as such by the CLIENT in accordance with the terms herein.

CLIENT agrees that J-U-B is not acting as a financial advisor to the CLIENT and does not owe CLIENT or any third party a fiduciary duty pursuant to Section 15B of the Exchange Act with respect J-U-B's professional Services. J-U-B will not give advice or make specific recommendations regarding municipal securities or investments and is therefore exempt from registration with the SEC under the municipal advisors rule. CLIENT agrees to retain a registered financial municipal advisor as appropriate for Project financing and implementation.

TIMES OF PAYMENTS

J-U-B shall submit monthly statements for Services rendered and for expenses incurred, which statements are due on presentation. CLIENT shall make prompt monthly payments. If CLIENT fails to make any payment in full within thirty (30) days after receipt of J-U-B's statement, the amounts due J-U-B will accrue interest at the rate of 1% per month from said thirtieth day or at the maximum interest rate allowed by law, whichever is less.

If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, J-U-B may suspend performance of Services upon five (5) days' notice to the CLIENT. J-U-B shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension caused by any breach of the Agreement by the CLIENT. Upon cure of breach or payment in full by the CLIENT within thirty (30) days of the date breach occurred or payment is due, J-U-B shall resume Services under the Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension, plus any other reasonable time and expense necessary for J-U-B to resume performance. If the CLIENT fails to make payment as provided herein and cure any other breach of this Agreement within thirty (30) days after suspension of Services, such failure shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by J-U-B.

CLIENT shall promptly review J-U-B's invoices and shall notify J-U-B in writing of any dispute with said invoice, or portion thereof, within thirty (30) days of receipt. Failure to provide notice to J-U-B of any dispute as required herein shall constitute a waiver of any such dispute. CLIENT shall pay all undisputed portions of such invoice as required by this Agreement. Client shall not withhold any payment or portion thereof as an offset to any current or prospective claim.

TERMINATION

The obligation to provide further Services under the Agreement may be terminated by either party upon thirty (30) days' written notice. If this Agreement is terminated by either party, J-U-B will be paid for Services and Additional Services rendered and for expenses incurred. In addition to any other remedies at law or equity, if the Agreement is terminated by the CLIENT for reasons other than J-U-B's material breach of this Agreement, or is terminated by J-U-B for CLIENT's material breach of this Agreement, J-U-B shall be paid a termination fee which shall include: the cost and expense J-U-B incurs in withdrawing its labor and resources from the Project, the costs and expense incurred by J-U-B to obtain and engage in a new Project with the labor and resources withdrawn from the Project, and the lost profit on the remainder of the work.

RISK ALLOCATION

In recognition and equitable allocation of relative risks and benefits of the Project, CLIENT limits the total aggregate liability of J-U-B and its employees and consultants, whether in tort or in contract, for any cause of action, as follows: 1) for insured liabilities, to the amount of insurance then available to fund any settlement, award, or verdict, or 2) if no such insurance coverage is held or available with respect to the cause of action, twenty five thousand dollars (\$25,000.00) or one hundred percent (100%) of the fee paid to J-U-B under this Agreement, whichever is less. J-U-B shall provide certificates evidencing insurance coverage at the request of the CLIENT. For purposes of this section, attorney fees, expert fees and other costs incurred by J-U-B, its employees, consultants, insurance carriers in the defense of such claim shall be included in calculating the total aggregate liability.

The CLIENT agrees that J-U-B is not responsible for damages arising directly or indirectly from any delays for causes beyond J-U-B's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; emergencies or acts of God; failure of any government agency or other third party to act in a timely manner; failure of performance by the CLIENT or the CLIENT's contractors or consultants; or discovery of any hazardous substance or differing site conditions. In addition, if the delays resulting from any such causes increase the cost or time required by J-U-B to perform its Services in an orderly and efficient manner, J-U-B shall be entitled to an equitable adjustment in schedule and compensation.

Notwithstanding any other provision contained within this Agreement, nothing shall be construed so as to void, vitiate, or adversely affect any insurance coverage held by either party to this Agreement. The CLIENT further agrees that, to the fullest extent permitted by law, no shareholder, officer, director, or employee of J-U-B shall have personal liability under this Agreement, or for any matter in connection with the professional services provided in connection with the Project.

Neither CLIENT nor J-U-B shall be responsible for incidental, indirect, or consequential damages.

HAZARDOUS WASTE, ASBESTOS, AND TOXIC MATERIALS

The CLIENT agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless J-U-B, its officers, employees, successors, partners, heirs and assigns (collectively, J-U-B) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project location, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of J-U-B.

RIGHT OF ENTRY

The CLIENT shall provide J-U-B adequate and timely access to all property reasonably necessary to the performance of J-U-B and its subconsultant's services. The CLIENT understands that use of testing or other equipment may unavoidably cause some damage, the correction of which, or compensation for, is expressly disclaimed by J-U-B. Any such costs incurred are CLIENT's sole responsibility.

MEDIATION BEFORE LITIGATION

Any and all disputes arising out of or related to the Agreement, except for the payment of J-U-B's fees, shall be submitted to nonbinding mediation before a mutually-acceptable mediator as a condition precedent to litigation or other binding adjudicative procedure unless the parties

mutually agree otherwise. The CLIENT further agrees to include a similar mediation provision in all agreements with independent contractors, consultants, subcontractors, subconsultants, suppliers and fabricators on the Project, thereby providing for mediation as the primary method for dispute resolution among all the parties involved in the Project. In the event the parties are unable to agree on a mediator, said mediator shall be appointed by a court of competent jurisdiction or, if not possible, the American Arbitration Association. If a dispute relates to, or is the subject of a lien arising out of J-U-B's Services, J-U-B or its subconsultants may proceed in accordance with applicable law to comply with the lien notice and filing deadlines prior to submission of the matter by mediation.

LIMITATION PERIODS

For statutes of limitation or repose purposes, any and all CLIENT claims shall be deemed to have accrued no later than the date of substantial completion of J-U-B's Services.

LEGAL FEES

For any action arising out of or relating to this Agreement, the Services, or the Project, each party shall bear its own attorneys fees and costs.

SURVIVAL

All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

EXTENT OF AGREEMENT

In entering into this Agreement, neither party has relied upon any statement, estimate, forecast, projection, representation, warranty, action, or agreement of the other party except for those expressly contained in this Agreement. CLIENT shall include a similar provision in its contracts with any contractor, subcontractor, or consultant stating that any such contractor, subcontractor, or consultant is not relying upon any statement, estimate, forecast, projection, representation, warranty, action, or agreement of J-U-B when entering into its agreement with CLIENT.

This Agreement represents the entire and integrated agreement between the CLIENT and J-U-B and supersedes all prior negotiations, representations or agreements, either written or oral. The Agreement may be amended only by written instrument signed by both CLIENT and J-U-B.

In the event any provision herein or portion thereof is invalid or unenforceable, the remaining provisions shall remain valid and enforceable. Waiver or a breach of any provision is not a waiver of a subsequent breach of the same of any other provision.

SUCCESSORS AND ASSIGNS

Neither party shall assign, sublet, or transfer any rights or interest (including, without limitation, moneys that are due or may become due) or claims under this Agreement without the prior, express, written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated in any written consent to an assignment, no assignment will release the assignor from any obligations under this Agreement.

No third party beneficiary rights are intended or created under this Agreement, nor does this Agreement create any cause of action in favor of any third party hereto. J-U-B's Services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against J-U-B because of this Agreement or the performance or nonperformance of Services hereunder. In the event of such third party claim, CLIENT agrees to indemnify and hold J-U-B harmless from the same. The CLIENT agrees to require a similar provision in all contracts with contractors, subcontractors, consultants, vendors and other entities involved in the Project to carry out the intent of this provision to make express to third parties that they are not third party beneficiaries.

CONTROLLING LAW, JURISDICTION, AND VENUE

This Agreement shall be interpreted and enforced in and according to the laws of the state in which the Project is primarily located. Venue of any dispute resolution process arising out of or related to this Agreement shall be in the state in which the Project is primarily located and subject to the exclusive jurisdiction of said state.



J-U-B ENGINEERS, INC.

J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES

Attachment 1 – Scope of Services and / or Schedule and / or Basis of Fee

Client Name: City of Clarkston.

Project: Record of Survey and Alley Vacation
5 Legal Descriptions

The Agreement for Professional Services dated February, 2019 is amended and supplemented to include the following provisions regarding the Scope of Services, and/or Schedule of Services, and/or the Basis of Fee:

For the purposes of this attachment, 'Agreement for Professional Services' and 'the Agreement' shall refer to the document entitled 'Agreement for Professional Services,' executed between J-U-B and CLIENT to which this exhibit and any other exhibits have been attached.

SCOPE OF SERVICES

Project description – This property is located between Elm and Maple Street, between 5th & 6th Street.

J-U-B's Services under this Agreement are limited to the following:

1. Record of Survey and Topo

- o Research at Title Company
- o Lot Computations and Set Property Corners (6 at center of Alleys)
- o Prepare Record of Survey
- o Prepare 5 Legal Description for Alley Vacation
- o Check Record of Survey
- o Record of Survey to be filed at Asotin County (Filing Fee to be Paid by CLIENT)

Total for Surveying- \$2,650.00

Predicated upon timely receipt of CLIENT-provided information, typical review periods, and active direction during work, J-U-B anticipates the following schedule for the Services listed:

Work will begin soon as we can upon execution of this contract.

BASIS OF FEE

J-U-B's Basis of Fee for the Services listed in the Agreement is as follows:

Surveying Services Lump Sum of \$2,650.00

AGREEMENT FOR PROFESSIONAL SERVICES

This is an Agreement effective as of _____ ("Effective Date") between the **City of Clarkston** ("Owner") and **Keller Associates, Inc.** ("Consultant").

Owner's Project, of which Consultant's services under this Agreement are a part, is generally identified as follows: **City of Clarkston WWTP Utility Water Improvements** ("Project").

The Owner and the Consultant agree to the following Project scope, schedule, and compensation:

SCOPE: Consultant's services under this Agreement are generally identified as **Described in Attachment A.**

SCHEDULE: The Agreement shall commence on the above written date. Consultant anticipates to complete its services within 150 days.

COMPENSATION:

Basic Services. As compensation for services to be performed by Consultant, the Owner will pay Consultant a lump sum amount of **\$36,975.00 (Thirty-Six Thousand Nine Hundred Seventy-Five dollars)** as described in **Attachment A.**

Additional Services. Compensation for performing Additional Services will be pursuant to a mutually agreed upon amendment to this Agreement.

In Witness Whereof, the parties hereto have executed this Agreement as of the date first above written. Owner further acknowledges that it has reviewed and accepted the attached Standard Terms and Conditions.

OWNER: CITY OF CLARKSTON

CONSULTANT KELLER ASSOCIATES, INC.

Signature: _____
Name: Monika Lawrence
Title: Mayor
Address: 829 5th Street
Clarkston, WA 99403
Telephone: (509) 758-5541
Date: _____

Signature: 
Name: Larry Rupp, PE
Title: Principal
Address: 131 SW 5th Avenue
Meridian, ID 83642
Telephone: (208) 288-1992
Date: 2-19-19

STANDARD TERMS AND CONDITIONS

1. **CONTRACT** – This document constitutes the full and complete Agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. The Agreement may be amended only if both parties specifically agree in writing to such amendment of the Agreement.
2. **INVOICES AND PAYMENT** – Owner will make payment within 30 calendar days of the invoice date. Consultant shall keep accurate records of expenses. If Owner contests an invoice, Owner shall advise the Consultant within 15 days of receipt of invoice of the specific basis for doing so, may withhold only that portion so contested, and shall pay the undisputed portion.

Interest. If payment is not received by the Consultant within 30 calendar days of the invoice date, Owner shall pay interest at a rate of 1½% per month (or the maximum allowable by law, whichever is lower) of the past due amount. Payments will be credited first to interest and then to principal.

Suspension. If the Owner fails to make payments when due, the Consultant may suspend performance of services upon five (5) calendar days' notice to the Owner. Owner agrees to indemnify and hold Consultant harmless from any claim or liability resulting from such suspension.
3. **DOCUMENTS** – All documents prepared or furnished by Consultant are instruments of service, and Consultant retains ownership and property interest (including the copyright and the right of reuse) in such documents. Owner shall have a limited license to use the documents in and for the Project subject to full payment for all services relating to preparation of the documents. The Owner agrees to obtain prior written agreement for any reuse or modifications of the instruments of service, and understands that any unauthorized use of the instruments of service shall be at the Owner's sole risk and without liability to the Consultant.
4. **STANDARD OF CARE** – The standard of care for all professional engineering and related services performed or furnished by the Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. The Consultant makes no warranties, expressed or implied, under this Agreement or otherwise, in connection with the Consultant's services. Consultant shall exercise usual and customary professional care in its efforts to comply with applicable codes, regulations, laws, rules, ordinances, and such other requirements in effect as of the date of execution of this Agreement.
5. **CHANGES OR DELAYS** – The proposed scope of services, compensation, schedule, and allocation of risks reflect Consultant's understanding of the Project at the date of this Agreement. Costs and schedule commitments shall be subject to renegotiation for changed conditions, unreasonable delays caused by the Owner's failure, independent government agencies, acts of God, or causes beyond the reasonable control of Consultant. Where this occurs, changes in the Agreement shall be negotiated and an equitable adjustment shall be made.
6. **TERMINATION** – The Owner and Consultant may terminate this Agreement in whole or in part at any time by giving 30 days written notice thereof. The Owner shall promptly pay Consultant for all services rendered to the effective date of suspension of services, plus suspension charges, which shall include the cost of assembling documents, personnel and equipment, rescheduling or reassignment, and commitments made to others on the Owner's behalf.
7. **SUSPENSION OF SERVICES** – If the Owner suspends services of the Consultant for any reason for more than thirty days, the Consultant shall be reimbursed for expenses incurred due to suspension of services, including costs associated with rescheduling or reassigning personnel, and commitments made to others on Owner's behalf.
8. **INDEMNITY AND LIMITATION OF LIABILITY** – Owner and Consultant each agree to indemnify and hold the other (including their respective officers, directors, employees, agents, owners, shareholders, members, partners, sub-consultants, subcontractors, and representatives) harmless from and against liability for all claims, losses, damages and expenses, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of Owner and Consultant, they shall be borne by each party in proportion to its negligence. Neither the Owner nor Consultant shall be liable for incidental, indirect or consequential damages. The Consultant's liability to the Owner and to all construction contractors and subcontractors on the Project, due to the Consultant's negligent acts, errors omissions, or breach of contractual obligations relating to or arising out of the Project shall not exceed the total aggregate sum of \$2,000,000.

9. **OPINIONS OF COST** – Consultant’s opinions of probable cost represent Consultant’s judgment as an experienced and qualified design professional. Since Consultant has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Owner’s and other contractor’s methods of determining prices, or over competitive bidding or market conditions, the Consultant cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable cost prepared by the Consultant.
10. **CONSTRUCTION PHASE SERVICES** – If Consultant performs any services during the construction phase of the Project, Consultant shall not supervise, direct, or have control over Contractor’s work. Consultant shall not have authority over or responsibility for the construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work of the Contractor. Consultant does not guarantee the performance of the construction contract by the Contractor and does not assume responsibility for the Contractor’s failure to furnish and perform its work in accordance with the Contract Documents.
11. **MISCELLANEOUS**

Right of Entry: Unless otherwise noted in the scope of work, the Owner shall provide for Consultant’s right to enter the property owned by the Owner and others in order to fulfill the services to be performed hereunder.

Dispute Resolution: Owner or its Contractor agree to notify Consultant of any claims against the Consultant within 10 days of discovery of any allegations, errors or omissions. Should a dispute arise, Owner and Consultant agree to negotiate disputes between them in good faith for a period of 30 calendar days from the date the dispute is raised in writing by either the Owner or Consultant. If the parties fail to resolve the dispute through negotiation, then the dispute shall be decided through non-binding mediation or other mutually agreed alternative dispute resolution technique. Fees and expenses for mediation shall be split equally between the parties. The Owner and Consultant agree non-binding mediation or other mutually acceptable dispute resolution technique shall precede litigation. This Agreement shall be governed by the laws of the State where the Project is located.

Hazardous Environmental Conditions: The scope of Consultant’s services does not include any responsibility for detection, remediation, accidental release, or services relating to waste, oil, asbestos, lead or other hazardous materials, as defined by Federal, State, and local laws or regulations. Consultant is not required to become an arranger, operator, generator, or transporter of hazardous substances, and shall have no responsibility for the discovery, handling, removal, disposal or exposure of persons to hazardous substances of any form.

Consultant Reliance: Consultant shall be entitled to rely, without liability or the need for independent verification, on the accuracy and completeness of any and all information provided by Owner, Owner’s consultants and contractors, information from public records, and information ordinarily or customarily furnished by others, including, but not limited to specialty contractors, manufacturers, suppliers, and publishers of technical standards.

Certifications: Consultant shall not be required to sign any documents that result in Consultant having to certify, warrant, or guarantee the existence of conditions whose existence Consultant cannot ascertain within its services for the Project.

Third Parties: Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Consultant. Consultant’s services hereunder are being performed solely for the benefit of the Owner, and no other entity shall have any claim against Consultant because of this Agreement or Consultant’s performance of services hereunder.

Severability & Waiver: In the event any of these Contract Provisions are found to be illegal or otherwise unenforceable, the unenforceable Contract Provisions will be stricken, and those remaining Contract Provisions shall continue in full force and effect. The failure of either party of this Agreement to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, shall not be construed as a waiver of such term, covenant or right.

Joint Drafting: The Parties expressly agree that this Agreement was jointly drafted, and that they both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

Attachment A

City of Clarkston Wastewater Treatment Plant Utility Water Improvements Scope & Budget

The City of Clarkston (“City”) has requested that Keller Associates (“Consultant”) provide engineering design and construction drawings and specifications to modify or replace the filters and electrical equipment housed in the Utility Wash Water Building at the Clarkston Wastewater Treatment Plant (“WWTP”). Modifications are being requested due to buildup and water blowback caused by excessive fouling of the filters due to Daphnia buildup. As part of the modifications, the City has requested that the Ultraviolet (UV) control PLC and associated electrical equipment be relocated to a new building, or add-on to the existing filter building, that will be designed as part of this scope. Additional work, as part of this scope, will include associated demolition of the existing hoisting crane, site leveling, new building pad design, building design, HVAC for new building, rerouting electrical conduit from the existing building to new proposed building, filter backwash and disposal piping, existing building modifications for new gantry crane, associated electrical design for utility wash water and pressure controls, crane demolition, and site restoration.

Project Understanding

The City’s WWTP utility wash water is distributed to the plant appurtenances utilizing two (2) VFD pumps. The utility wash water is filtered to remove the Daphnia. The current filters require that they be manually removed to be cleaned when the media begins to foul. Recently, the City has been experiencing excessive fouling of the filter media due to the Daphnia, requiring frequent manual cleaning and in some cases water blowback due to the back pressure created by the fouled filters. When blowback occurs, the water and filtered materials are sprayed throughout the building. The blowback and water spray not only have created a safety maintenance issue but also concerns to potential damage to the UV control panels and associated electrical equipment that are housed in the same building. Given these potential risks, the City would like to construct a new building adjacent to the existing utility wash water building to house the UV panels

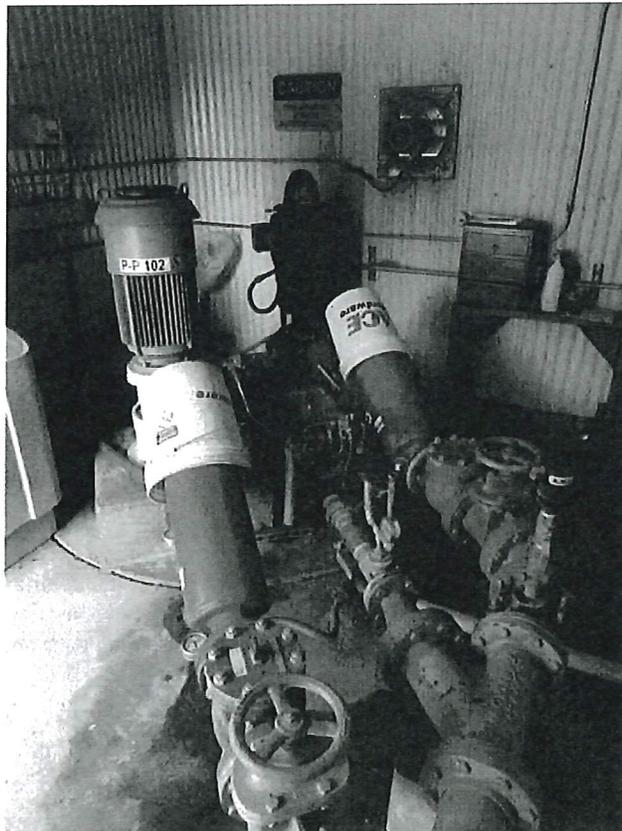


Figure 1 – WWTP Utility Wash Water Piping

and control. In addition to the new building, the City would like to reconfigure the existing utility wash water piping gallery to include new filters that provide backwash cycles and install pressure sensors on the pump discharge to control pump speeds, and a new gantry crane or hoisting mechanism for pump removal.

Consultant Services

In order to complete the project described above, the following tasks will be performed:

Task 1. Design Phase Services

1.1 Consultant Responsibilities

- 1.1.1 Project Management. Provide general project administration services including contract administration, monthly invoicing, internal project administration, attend three (3) review meetings (see 1.1.4 and 1.1.6 below), and management of overall project team for the duration of the project. The duration of the project will be 5 months (150 days).
- 1.1.2 Topographical Basemap. Keller will utilize existing data and topographical survey from the 2010 Clarkston WWTP Improvement project to create a base drawing which can be utilized for the design and construction plan development.
- 1.1.3 Schematic Civil/Structural/Electrical Plans. Keller will prepare Schematic level drawings to include base mapping, vertical and horizontal control, preliminary site grading, structural drawings for the new building and modifications to the existing building, preliminary electrical site plans, preliminary mechanical sheets to include utility wash water piping and filters.
- 1.1.4 Review Meeting #1. Keller will attend one (1) review meeting with the City of Clarkston at either Clarkston City Hall or the WWTP to review the schematic Civil/Structural/Electrical Plans. The intent of the meeting will be to review the schematic design and discuss modifications and review and select final critical equipment to be included in the design. Critical equipment will include filters, electrical control panels, and HVAC. No technical memorandums or reports will be included as part of the critical equipment selection.
- 1.1.5 50% Schematic Civil/Structural/Electrical Plans. Keller will update the schematic drawings to include comments from Review Meeting #1. The updated plans will also include an update to the plans to include equipment made as part of the critical equipment selection. An Opinion of Probable Construction Cost will be prepared as part of this task. General notes and specifications will be updated to include equipment selected as part of Review Meeting #1.
- 1.1.6 Review Meeting #2. Keller will meet with the City to review the drawings developed in Task 1.1.5 at either Clarkston City Hall or the WWTP.
- 1.1.7 95% Schematic Civil/Structural/Electrical Plans. Keller will incorporate comments from Review Meeting #2 to advance the schematic drawings to 95% level Civil/Structural/Electrical drawings. 95% drawings will include all the drawings included with Task 1.1.5 as well as additional detail to include general notes sheets, line legend

sheet, structural building details, structural demo plan, electrical demo plan, electrical power plan, electrical one-line diagram, electrical schedules and details, and mechanical and piping details. The task will include an updated Opinion of Probable Construction Cost from Task 1.1.5.

- 1.1.8 Review Meeting #3. Keller will meet with the City to review the drawings developed in Task 1.1.7 at either Clarkston City Hall or the WWTP.
- 1.1.9 Finalize Civil/Structural/Electrical Plans. Address City comments from Review Meeting #3 and finalize plans. Internal quality control review. Stamp and seal final plans and submit to City for bidding/contractor procurement. Provide a final Opinion of Probable Construction Cost.

1.2 City Responsibilities

- 1.2.1 Provide timely response to questions and timely review at all phases of the design.
- 1.2.2 Provide requested equipment information, drawings, or data.

1.3 Assumptions

- 1.3.1 It is anticipated that the schedule for design services will be 5 months (150 days).
- 1.3.2 Hazardous materials and disposal will not be encountered.
- 1.3.3 It is anticipated that topographic survey will not be required and existing mapping and field visit will provide information necessary to provide the City with the plan and specifications.
- 1.3.4 Bid phase services may be provided either as an amendment to this Agreement or under a separate Agreement.
- 1.3.5 Construction administration and management may be provided under a separate Agreement.
- 1.3.6 It is anticipated that if any public outreach or involvement occurs, that the Consultant will not be involved.
- 1.3.7 Submittals and approvals from the City's Building Department and the Department of Ecology are not needed.

1.4 Deliverables

- 1.4.1 Schematic Civil/Structural/Electrical Plans – one electronic PDF copy
- 1.4.2 50% Civil/Structural/Electrical Plans – one electronic PDF copy
- 1.4.3 95% Civil/Structural/Electrical Plans – one electronic PDF copy
- 1.4.4 Final Civil/Structural/Electrical Plans – two stamped hardcopies and one electronic PDF copy

Compensation

The Consultant will be reimbursed for a lump sum fee of \$36,975 (thirty-six thousand nine hundred seventy-five dollars) for completion of Task 1, including all related subtasks outlined above.

**SECOND ADDENDUM TO
INTERGOVERNMENTAL COOPERATIVE AGREEMENT**

THIS SECOND ADDENDUM (“Second Addendum”) is entered into by and between the Asotin County, a duly formed and existing county pursuant to the laws and Constitution of the State of Washington (“Asotin County”); the City of Clarkston, a Washington municipal corporation (“Clarkston”); Nez Perce County, a duly formed and existing county pursuant to the laws and Constitution of the State of Idaho (“Nez Perce County”); and the City of Lewiston, an Idaho municipal corporation (“Lewiston”). Asotin County, Clarkston, Nez Perce County, and Lewiston may also individually be referred to as “Party” or collectively as “Bridge Owners.”

WHEREAS, in or about 1981, Southway Bridge, which crosses the Snake River and the state line between Idaho and Washington, was constructed;

WHEREAS, Southway Bridge is jointly owned, operated, and maintained by Lewiston, Nez Perce County, Clarkston, and Asotin County;

WHEREAS, on December 7, 1982, the Bridge Owners entered into an Intergovernmental Cooperative Agreement (“Agreement”), which, among other things, designates Lewiston as the “Coordinating Agency” and vests authority for the administration of maintenance of Southway Bridge in the Public Works Director of the Coordinating Agency;

WHEREAS, the duration of the Agreement is for the life of Southway Bridge and, thus, the Agreement is still in effect;

WHEREAS, on October 1, 1984, the Bridge Owners executed an Addendum to the Intergovernmental Cooperative Agreement (“First Addendum”) regarding the 16th Avenue approach to Southway Bridge;

WHEREAS, the Bridge Owners, aware that the Southway Bridge deck is nearing the end of its useful life, now wish to execute this Second Addendum to the Agreement to set forth their

respective responsibilities regarding the engineering design for pavement rehabilitation of Southway Bridge (“Project”);

WHEREAS, the Bridge Owners intend to execute a separate addendum regarding their respective responsibilities regarding the construction phase of the pavement rehabilitation of Southway Bridge, and such phase is not included within the scope of this Second Addendum;

WHEREAS, Lewiston and Nez Perce County are authorized to enter into this Second Addendum pursuant to Idaho Code §§ 31-801, 31-828, 50-301, and 67-2332; and

WHEREAS, Clarkston and Asotin County are authorized to enter into this Second Addendum pursuant to Revised Code of Washington 35.99.020 and 36.55.030.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is hereby agreed to and stipulated by and among the Bridge Owners as follows:

1. **Recitals Incorporated.** The foregoing recitals are hereby incorporated into and made a part of this Second Addendum, including all defined terms therein.

2. **Assignment.** For purposes related to the design and construction for pavement rehabilitation of Southway Bridge only, the Bridge Owners hereby assign the role of Coordinating Agency, as originally set forth in the Agreement, to Asotin County; and administration of the Project is hereby vested in Asotin County’s Public Works Director. This assignment is made to facilitate funding of the Project. Asotin County and Clarkston are using Surface Transportation Program (STP) and local funds to pay for their shares of the Project. In order to receive such funds, Washington law requires that a Washington agency be designated as the lead agency on the Project.

3. **Duties of Asotin County.** As the Coordinating Agency for the Project, Asotin County shall:

a. Provide oversight and administration of the Project, in consultation with the other Bridge Owners.

b. Ensure compliance with all applicable laws and regulations (federal, state, and local) for the procurement of services and materials needed for the Project.

c. Include as a term in the contract between Asotin County and the engineering design firm the following language, or language substantially and materially similar in nature and intent:

The City of Lewiston, Idaho, the City of Clarkston, Washington, and Nez Perce County, Idaho (each a "Bridge Owner") shall be named third party beneficiaries to this <contract> and are fully indemnified by consultant or contractor as if each were signatory to the <contract>. Each Bridge Owner is fully entitled to all benefits and protections of this <contract> as if a signatory to this <contract>.

d. Abide and be bound by the provisions in the Agreement related to the Coordinating Agency.

4. **Cost Sharing.** Subject to Section 4.a of this Second Addendum, the Bridge Owners shall equally share the cost of the engineering design consultant selected for the Project, so long as the cost for such consultant does not exceed One Hundred Eighty Thousand Dollars (\$180,000).

a. If the cost of the engineering design consultant is expected to exceed One Hundred Eighty Thousand Dollars (\$180,000), then Asotin County, prior to entering into a contract with such consultant, shall notify and obtain written approval regarding such additional cost from the persons listed in Section 18 of this Second Addendum. If such persons lack authority to authorize the additional cost, then they shall seek decisions from the persons or governing bodies that have authority to approve the additional cost. In the event that one (1) or more Bridge Owners do not agree to the additional cost, the Bridge Owners shall confer in a timely manner to discuss

whether to proceed with the Project and under what terms and conditions, if different from those set forth herein.

b. Asotin County shall bill Lewiston, Clarkston, and Nez Perce County for their proportionate shares of the engineering design consultant costs, and such Parties shall pay Asotin County within thirty (30) days from receipt of invoice from Asotin County. Asotin County shall keep accurate records of expenses.

c. By signing this Second Addendum, each Party affirmatively represents that it has sufficient funds available and appropriated for this Project in its current budget.

5. **Indemnification.** The Bridge Owners are governmental entities subject to statutory and constitutional restrictions concerning acceptance of liability. It is the intention of the Bridge Owners that each will be responsible for its own acts and omissions and those of its employees, officers, agents, and contractors.

6. **Term and Termination.** The term of this Second Addendum shall be from the Effective Date through termination or expiration of the contract between Asotin County and the engineering design consultant selected for the Project. This Second Addendum shall not obligate a Party to any indebtedness or liability, in any manner, beyond its current fiscal year. In the event that the term of this Second Addendum continues into a future fiscal year of any Party, the term shall be wholly contingent upon the annual appropriation of funds by each Bridge Owner for the Project.

This Second Addendum may only be terminated upon written mutual agreement of all Bridge Owners, or upon its expiration.

7. **Severability.** In the event that any provision of this Second Addendum is found for any reason to be unenforceable, the remainder of this Second Addendum shall remain in full force and effect and shall be binding upon the Bridge Owners.

8. **Survival.** All covenants, conditions, indemnifications, and other elements in this Second Addendum that might involve performance subsequent to any termination or expiration of this Second Addendum or that cannot be reasonably ascertained or fully performed until after termination or expiration of this Second Addendum shall survive.

9. **Amendments.** This Second Addendum may be modified or amended only by a writing duly executed by all Bridge Owners.

10. **Performance/Waiver.** No waiver of any provision of this Second Addendum shall be effective unless made in writing and signed by the waiving Party. The failure of any Party to require the performance of any term or obligation of this Second Addendum, or the waiver by any Party of any breach of this Second Addendum, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

11. **Assignment.** This Second Addendum may not be assigned in whole or in part by any Parties without the prior express written consent of all Bridge Owners.

12. **Third Party Beneficiaries.** Nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party. Nothing contained herein shall extend the liability of any Party beyond that provided by governing law.

13. **Attorney Fees.** In the event a controversy, claim, or action arises between the Bridge Owners regarding the enforcement of terms and conditions of this Second Addendum, or the breach of any of its provisions, the prevailing party shall be entitled to all costs and expenses incurred, including reasonable attorney fees.

14. **Force Majeure.** “Event of Force Majeure” means an event beyond the control of a Party that prevents such Party from complying with any of its obligations under this Second Addendum , including riots, acts of God, accidents, order of a court of competent jurisdiction,

failure of a required governmental approval, civil disorders, acts of war, material shortages, disease, or similar occurrence, and not attributable to such Party's neglect or nonfeasance.

No Party shall be considered in breach of this Second Addendum or liable to another Party for any losses and damages to the extent that performance of their respective obligations is prevented by an Event of Force Majeure. The Party prevented from carrying out its obligations hereunder ("Affected Party") shall give notice to the other Bridge Owners of an Event of Force Majeure upon it being foreseen by, or becoming known to, the Affected Party. If and to the extent that the Affected Party is prevented from performing its obligations by an Event of Force Majeure, while the Affected Party is so prevented, the Affected Party shall be relieved of its obligations hereunder, but shall endeavor to continue to perform its obligations under this Second Addendum so far as reasonably practicable.

15. **Counterparts.** This Second Addendum may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

16. **Joint Drafting.** The Bridge Owners expressly agree that this Second Addendum was jointly drafted and all Bridge Owners had an opportunity to negotiate its terms and obtain the assistance of legal counsel in reviewing its terms prior to execution. Therefore, this Second Addendum shall be construed neither against nor in favor of any Party, but shall be construed in a neutral manner.

17. **Contracting Authority.** Each Party warrants that its signatory to this Second Addendum has the authority to fully bind such Party to enter into and be obligated to perform the duties set forth herein.

18. **Notices.** All notices required to be given pursuant to this Second Addendum shall be in writing and shall be deemed delivered immediately if hand-delivered or emailed to an operable

email address or seventy-two (72) hours after depositing the same in the U.S. mail, certified or registered, addressed to the respective addresses set forth below:

Asotin County:	Public Works Director Asotin County P.O. Box 250 Asotin, Washington 99402 djohnson@co.asotin.wa.us
Clarkston:	Public Works Director City of Clarkston 829 5 th Street Clarkston, Washington 99403 clarkstonpwd@cableone.net
Nez Perce County:	Board of County Commissioners Nez Perce County P.O. Box 896 Lewiston, Idaho 83501 commissioners@co.nezperce.id.us
Lewiston:	Public Works Director City of Lewiston 1134 F Street P.O. Box 617 Lewiston, Idaho 83501 cdavies@cityoflewiston.org

19. **Merger and Integration.** This writing embodies the whole agreement of the Bridge Owners in regards to the engineering design for pavement rehabilitation of Southway Bridge. The Intergovernmental Cooperative Agreement, dated December 7, 1982, shall remain in full force and effect except as modified herein.

Signature page to follow

IN WITNESS WHEREOF, the Bridge Owners have executed this Second Addendum on the last day and year written below (“Effective Date”).

CITY OF LEWISTON

Date: _____

By: _____
Michael G. Collins, Mayor

Attest:

Kari J. Ravencroft, City Clerk

NEZ PERCE COUNTY

Date: _____

Douglas A. Zenner, Chairman

Douglas W. Havens, Member

Don H. Beck, Jr., Member

Attest:

Patty O. Weeks, Clerk

CITY OF CLARKSTON

Date: _____

By: _____
Monika Lawrence, Mayor

Attest:

Steve Austin, City Clerk

ASOTIN COUNTY

Date: _____

Brian Shinn, Chairman

Jim Jeffords, Vice Chair

Chris Seubert, Member

Attest:

Vivian Bly, Clerk