

**CITY OF CLARKSTON
CITY COUNCIL AGENDA
829 5th Street
MONDAY, August 24, 2015**

- 1. CALL TO ORDER: 7:00 P.M.**
- 2. PLEDGE OF ALLEGIANCE:**
- 3. AGENDA CHANGES:**
- 4. APPROVAL OF MINUTES:
August 10, 2015, Regular Meeting**

- 5. COMMUNICATIONS:**
 - A. From the Public** (Please limit comments to 3 minutes)
 - B. From the Mayor**
 - C. From Staff or Employees**

- 6. COMMITTEE REPORTS:**
 - A. Finance – Audit Report on Current Bills**
 - B. Public Safety – no meeting**
 - C. Public Works – August 19**
 - D. Administrative/Intergovernmental – August 24**
 - E. Community Development – no meeting**

- 7. UNFINISHED BUSINESS:**

- 8. NEW BUSINESS:**
 - A. Agreement for Legal Services, Menke Jackson Beyer, LLP (Ken Harper) (PW)**
 - B. Ordinance No. 1543, Code of Ethics, 1st Reading (Admin)**
 - C. Ordinance No. 1544, Excess Sewer Bond Funds, 1st Reading (PW)**
 - D. Addendum to Contract with Keller Engineering for Lift Station Planning & Design (PW)**

- 9. COUNCIL COMMENTS**
- 10. MEDIA QUESTIONS**
- 11. 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
August 10, 2015

COUNCIL:

- | | |
|---|--|
| <input type="checkbox"/> Beadles, excused | <input checked="" type="checkbox"/> Nash |
| <input checked="" type="checkbox"/> Provost | <input checked="" type="checkbox"/> Manchester |
| <input checked="" type="checkbox"/> Kolstad | <input checked="" type="checkbox"/> Blackmon |
| <input checked="" type="checkbox"/> White | |

STAFF:

- Chief Hastings Chief Cooper Clerk Storey City Attorney Grow PWD Martin

AGENDA CHANGES: Councilmember Kolstad asked to add discussion of the hiring of Ken Harper to New Business. Mayor Warren added an executive session for litigation.

MOTION BY BLACKMON/PROVOST to excuse Councilmember Beadles. Motion carried.

APPROVAL OF MINUTES:

MOTION BY NASH/BLACKMON to approve the minutes of the July 27, 2015, Regular Meeting. Motion carried.

COMMUNICATIONS:

A. From the Public:

Mayor Warren asked the council to determine whether they want to extend the 3 minute time limit for all speakers. MOTION BY PROVOST/BLACKMON to limit time to three minutes per person. Nash said there may some instances when people need additional time. Warren said she wants to treat everyone the same. Motion carried, 4-2; Kolstad and Nash opposed.

Tom Martin, addressed the audience. He said he has been threatened several times on the telephone. He thanked Chief Hastings for coming to his home to speak with him. He said he called the phone company and they offered to trace the call. He encouraged people to speak without fear. Councilmember Blackmon commented that while people may have their differences, all should be treated with civility.

Colleen Squires, 1216 20th Ave, said there have been over \$2,400 raised to assist with funeral expenses for Mr. Spear who passed away recently. She said he had no money and no family.

Tom Martin, said that council listened to Sherri Greenup, who is opposed to marijuana and used her words to institute the ban on marijuana. She works for Agency on Long Term Care and he said that her employer told him that, as an employee of the agency, she should not be speaking on the topic. He said he does not think information she shared is accurate. He asked the council to rescind the ban.

Sandy Fromdahl, 1759 6th Ave, asked why the City is continuing with a lawsuit against Canna4Life and Greenfield when new people will be elected in November anyway. She said it is a waste of time and money.

Kevin Nolette, 928 16th Street, pointed out that the state estimated \$1.5 to 2.0 billion in sales in the next five years. He said last year's sales were over \$300 million with \$85 million of that being taxes. Some revenue will go back to the local jurisdictions that allow retail sales. He said 1% of that \$85,000 could hire an employee, go to public education or to repair the track at the high school.

Nathan Betts, 2315 Rolling Hills Court, asked council to reply to some of his comments. He asked why council pays to belong to AWC if they aren't going to listen to them. He asked if Mayor Warren has informed the council that the city would receive a substantial amount of money beginning in 2016. He asked how much money has been spent on attorneys for the Canna4Life and Greenfield cases. He asked who brought in Ken Harper. He suggested council review RCW 2.72.020 and 2.72.730.

Carina Kaman, 411 9th St, said no one has to use marijuana, but the city could use the tax revenue. She said proper parenting is the answer to keeping kids off drugs, not a ban.

Melyssa Andrews, 721 11th, spoke about a child who planned to be at this meeting, but couldn't because he has had five seizures today. She had several children holding signs. She said her daughter, who is 8, is on five medications which has stunted her growth. She spoke of another child who is autistic and mentioned a couple of others. She said the police have been called because of her daughter's behavior

issues because she can't get the medical help she needs. She said the tax revenue could do so much for children. She said she wants to be on the council and work for the kids and the elderly.

Joseph Banks, 1129 13th St., said the last speaker spoke about his stepson who has an incurable disease called FOP. He said the doctors just want to prescribe a lot of medications. It causes his bones and tissue to calcify. He feels the tax revenue from marijuana could help people like him. He said many medications have too many side effects.

Melyssa Andrews asked to be placed on the agenda for the next meeting. Mayor Warren said she will have to meet with one of the committees first. She said her topic is to discuss finances and economics among other things. She was referred to Finance committee.

Kelly Jackson, 1045 Liberty Dr, said there are now three laws on the books regarding marijuana, I502, 5052 and 2136. He said the comments from council make him think they haven't read the laws. He said medical and recreational marijuana are joined now according to 5052. He said Canna4Life and Greenfield sell medical and recreational marijuana. He said banning both is not right.

B. From Mayor: Mayor Warren announced that Brady Woodbury, director of the Asotin County Health District will be speaking at City Hall at 6:30 on August 19. The event is sponsored by the Asotin County Democrats and Republicans.

Mayor Warren said she attended a session at AWC on marijuana funding and said there was no new information presented that hadn't already been in the newspapers. At the time of the conference the legislature was still in session and decisions had not been made about revenue distribution.

C. From Staff:

COMMITTEE REPORTS:

Finance: Councilmember Provost reported that committee has reviewed the bills. MOTION BY PROVOST/NASH to approve the July 31, 2015 invoices for \$412.79 and the August 10, 2105 invoices for \$409,238.08. Motion carried.

Public Safety: Councilmember Provost reported on the July 28 meeting. He said Asotin City Attorney Richards presented information on Asotin forming a municipal court. Asotin proposes that Clarkston's cost to participate would be \$60,000. He said there will be more discussion.

Chief Cooper addressed the Mutual Aid Agreement with Asotin County Fire District that is on the agenda for consideration. He expects the Fire District to approve it for signature at their meeting on August 11. He said it has been five years since there was a mutual aid agreement with the District. Cooper said the title will be changed to Intergovernmental Cooperation Agreement instead of Mutual Aid Agreement. He urged council to approve the agreement.

Committee discussed the retired fire engine. Cooper explained that the 1992 fire engine has been stored at Clearwater Paper fire department. An agreement is being considered that would allow Clearwater Paper to use the truck in exchange for. Clearwater will maintain and insure the truck. Cooper said the agreement should help us with our fire rating.

Committee discussed giving the fire chief authority to ban fireworks if climate conditions warrant. Committee is still researching options.

Councilmember Kolstad asked Chief Cooper why the language change on the mutual aid agreement. Cooper said it is due to some language on page 4 of the agreement that allows reimbursement of expenses in certain cases.

Public Works: No meeting.

Admin Committee: Councilmember Manchester said committee met August 10. There is nothing to report at this time.

Community Development: No meeting.

UNFINISHED BUSINESS:

NEW BUSINESS:

A. Mutual Aid Agreement with Asotin County Fire District 1

Agreement name has been changed to Intergovernmental Cooperation Agreement. MOTION BY NASH/MANCHESTER to approve the agreement. Nash asked if both departments respond to a fire at the Port of Wilma, how the reimbursement works. Cooper said the City would bill and then reimbursement the Fire District. Motion carried.

B. Hiring of Ken Harper

Councilmember Kolstad commented that the City had authorized the hiring of Ken Harper to defend against Kelly Jackson’s lawsuit against the City. He said Harper appeared last week unexpectedly in the case against Matt Plemmons and Aaron Tatum. Kolstad stated that the council did not authorize any money to hire Harper and asked who authorized him to appear, why he was brought in since Plemmons is not suing the city and whether any money has been paid to him for the Plemmons case.

City Attorney Grow said that because the cases are closely related he spoke with Harper and the City’s insurance carrier (WCIA). WCIA agreed that Harper should be included. Grow said that he received an 80 page brief from Plemmons attorney on the Wednesday prior to the hearing and worked many hours on a response. He said as he worked, he realized that the two cases were inseparably connected so he called Harper and WCIA. Grow said his job is to protect the city. Grow pointed out that his contract authorizes him to associate with other attorneys if needed. He said there was no time to hold a council meeting. He discussed it with the mayor and with WCIA. He believes that WCIA is going to cover the cost for Harper to assist in the hearing. Grow said if WCIA does not cover the cost, the cost should be between \$3,500 and \$4,500.

COUNCILMEMBER COMMENTS:

Councilmember Nash thanked Ms. Squires for raising money to cover funeral expenses for Dale Spear. Councilmember Blackmon said he read that only jurisdictions who allow retail sales of marijuana will receive a share of tax revenue, which is fine with him. He thinks the information indicates that the cities are well within their rights to ban marijuana.

Councilmember Kolstad said he finds it astonishing that Clarkston is apparently the only city in the state that is criminally prosecuting two business owners for violating the business license ordinance. He said it seems that in our zeal to demonize marijuana, we would take two businessmen and try to throw them in jail and fine them. He said he doesn’t think that is what Clarkston is all about. He said it makes him sad because he is a proud citizen of Clarkston and thinks the council has lost sight of what Clarkston is about. He thinks it is reckless of the city to continue to pursue putting Kelly and Matt in jail.

MEDIA QUESTIONS:

EXECUTIVE SESSION: Council went to Executive Session at 8:07 p.m. for litigation. Anticipated length of session is five minutes. No action is anticipated as a result. Council returned to open session at 8:12 p.m.

ADJOURNMENT:

Meeting adjourned at 8:13 p.m.

Vickie Storey, City Clerk

Kathleen A. Warren, Mayor

Total Fund Expenditures, 7/30/15	Ck # 20150701-04, 06, 07, 10	\$412.79
Total Fund Expenditures, 8/10/15	Ck # 59708-59785	\$116,656.04
Payroll, 7/30/15	Ck # 59660-59707	\$292,582.04

MENKE JACKSON BEYER, LLP

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G. SCOTT BEYER, *Of Counsel*

SEANN M. MUMFORD

August 19, 2015

ATTORNEY-CLIENT
PRIVILEGED & CONFIDENTIAL
COMMUNICATION

Ms. Vickie Storey, Clerk/Treasurer
City of Clarkston
829 Fifth Street
Clarkston, WA 98403

EMAIL/U.S. MAIL

RE: *Terms of Engagement for Providing Services*

Dear Ms. Storey:

Thank you for engaging Menke Jackson Beyer, LLP, to represent the City of Clarkston. We are pleased to have you as a client and look forward to working with you.

This letter and the attached Statement of Terms will govern our engagement. Please review the terms carefully and, if you have any questions or concerns about them, please contact me to discuss them. Except for the recitations as to the scope of representation, the attorneys responsible for that representation, and our hourly rates, the terms of this letter and the attached Statement of Terms will also apply to all future matters in which we represent you.

Scope of Representation. You have engaged us to represent the City in connection with litigation matters arising from proposed retail sales of marijuana within the City. Our services will be limited to providing the foregoing representation and will not extend to the City's general business, personal or legal affairs, or to any other aspect of its activities. You understand and agree that our receipt or use of confidential or other information from the City or anyone else in the course of this representation will not give rise to any expectation by the City that we will render any other advice or services.

Responsibility. The attorneys and paralegals of our firm have extensive experience in a large variety of legal specialties and disciplines. We assign work to the person best suited to perform it, with the goal of creating the best quality product on the most cost-effective basis. At all times, however, I will remain responsible and accountable to you. If you have any question or concern about our staffing or provision of services to you, please do not hesitate to contact me (509-575-0313).

Ms. Vickie Storey
City of Clarkston
August 19, 2015
Page 2

Fees. As the attached statement explains in more detail, our fees are ordinarily based on the hourly rates for attorneys and others who work on a matter. These rates are reset from time to time, usually at the beginning of each year, with changes reflected in the following month's billing statement. My current hourly rate is \$195.00. Rates for attorneys in the firm currently range from \$150.00 to \$225.00 per hour, while the rates for paralegals currently range from \$75.00 to \$100.00 per hour. Travel time is billed at the hourly rate and billings are based on a one-quarter (1/4) hour minimum.

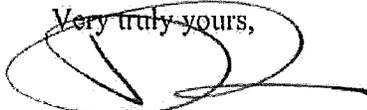
Invoices. As explained in the attached statement, we will bill you monthly and request payment upon receipt. We reserve the right to charge interest on unpaid invoices. If any invoice remains unpaid for more than 60 days, we may, consistent with our ethical obligations and requirements, cease performing services until satisfactory arrangements have been made.

Document Retention. Please note that at the conclusion of the engagement, you may request the return of original records you have provided to us, and of original records we have created for you. If you request additional materials or a copy of your entire file, you agree to pay our reasonable copying expenses. Materials associated with this matter that are not returned may be destroyed in accordance with our file retention policy.

Agreement. Our policy is that we cannot begin work on this engagement until we have received a copy of this letter, countersigned by you. Accordingly, if the terms meet your approval, please sign and return the enclosed copy to me upon receipt. If you ask us to start work before then, we will be happy to do so, but will consider that request as your agreement to the terms of this letter and statement.

We appreciate your choice of Menke Jackson Beyer, LLP, to serve your legal needs. As in every engagement we undertake, our goal is to understand your needs, provide the highest quality service and exceed your expectations. We welcome discussion of this letter and encourage you to be frank with us about how best to serve you. Should you ever have any questions about any aspect of our engagement, please do not hesitate to contact me.

Very truly yours,



Kenneth W. Harper

KWH:th
Enclosure

ORDINANCE NO. 1543

AN ORDINANCE OF THE CITY OF CLARKSTON, WASHINGTON, CREATING CLARKSTON MUNICIPAL CODE CHAPTER 2.26, WHICH ESTABLISHES A CODE OF ETHICS AND PROVIDING PENALITES FOR THE VIOLATION THEREOF.

The City Council of the City of Clarkston, Washington, do ordain as follows:

Section 1

Sections:

2.26.010	Declaration of Policy
2.26.020	Definitions
2.26.030	Use of Public Property
2.26.040	Obligations to Citizens
2.26.050	Code of Ethics
2.26.060	Confidential Information
2.26.070	Adoption of RCW by Reference – Exceptions
2.26.080	Penalties

2.26.010 Declaration of Policy.

The proper operation of democratic government requires that elected and appointed public officer and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the government structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Accordingly, it is the purpose of this chapter to establish ethical standards of conduct for all officers and employees of the city, whether elected or appointed, paid or unpaid; to set forth those acts that are incompatible with such standards; to require disclosure by such officers and employees of private financial or other interests in matters affecting the city; and to provide effective means for enforcement thereof. This chapter shall not be construed so as to impair the ability of city officers and employees to participate in ceremonial, representational, or informational functions in the pursuit of their official duties.

This chapter shall be liberally construed in favor of protecting the public's interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for city officers and employees.

2.26.020 Definitions.

(1) "Business entity" means any corporation, general or limited partnership, sole proprietorship (including a private consultant operation), joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, where or not organized for profit.

(2) "City Agency" means every department, office, commission, or committee of the city, or any subdivision thereof, but excluded public corporations and ad hoc advisory committees.

(3) "City Officer or Employee" means any person holding a position by election, appointment, or employment in the service of the city or city agency whether paid or unpaid.

(4) "Compensation" means anything of economic value, however designated, which is paid, loaned, advanced, granted, given or transferred for or in consideration of personal services to any person.

(5) "Gift" means anything of economic value in excess of \$20.00, regardless of the form, without adequate and lawful considerations; provided, it does not include the solicitation, acceptance, or receipts of political campaign contributions regulated in accordance with provisions of federal, state or local laws governing campaign finances.

(6) "Immediate family" includes spouses, domestic partners, parents, children, sisters, brothers, and any person related by blood to the city official and living in the same household as the city official.

(7) "Official act or action" means any legislative, administrative, appointive or discretionary act of any city officer or employee of the city.

(8) "Person" means any individual, association, corporation, or other legal entity.

(10) "Remote interest" means:

- (a) That of a non-salaried officer of a nonprofit corporation;
- (b) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;
- (c) That of a landlord or tenant of a contracting party;
- (d) That of a holder of less than one percent of the shares of a corporation or cooperative which is a contracting party.

2.26.030 Use of Public Property.

No official or employee shall request or permit the use of city owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as city policy for the use of such official or employee in the conduct of official business.

2.26.040 Obligations to citizens.

No official or employee shall grant, nor shall any citizen attempt to obtain, any special consideration, treatment or advantage beyond that which is available to every other citizen.

2.26.050 Code of Ethics.

The purpose of the code of ethics is to assist city officials and employees to establish guidelines to govern their own conduct. The code is also intended to help develop traditions of responsible public service. No official or employee shall engage in any act which is in conflict with the performance of his official duties. An official or employee shall be deemed to have conflict of interest if he:

- (1) Receives or has any financial interest in any sale to or by the city of any service or property when such financial interest was received with the prior knowledge that the city intended to purchase such property or obtain such service;
- (2) Accepts or seeks for others any service, information or thing of value on more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the city, except such service, information or thing of values would influence the vote, action, or judgment of the officer or employee, or be considered a reward for action or inaction. The value of gifts given to an official's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family or social relationship exists between the donor and the family member or guest;
- (3) Accepts any gift or favor from any person, firm or corporation having any dealings with the city if he knows or has reason to know that it was intended to obtain special consideration;
- (4) Influences the selection of or the conduct of business with a corporation having any dealings with the city if he knows or has reason to know that it was intended to obtain special consideration;
- (5) Is an employee, officer, partner, director or consultant of any corporation, firm or person having business with the city, unless he has disclosed such relationship as provided by this chapter;
- (6) Engages in or accepts private employment or renders services for private industry when such employment or service is incompatible with the proper discharge of his official duties or would impair his independence of judgment or action in the performance of his official duties;
- (7) Appears in behalf of a private interest before any regulatory governmental agency, or represents a private interest in any action or proceeding against the interest of the city in any litigation to which the city is a party, unless he has a personal interest and this personal interest has been disclosed to the regulatory governmental agency. A city councilman may appear before regulatory governmental agencies on behalf of constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations; however, no official or employee shall accept a retainer or compensation that is contingent upon a specific action by a city agency;
- (8) Directly or indirectly possess a substantial or controlling interest in any business entity which conducts business or contracts with the city, or in the sale of real estate, materials, supplies or services to the city, without disclosing such interest as provided by this chapter. An interest is not a substantial interest if such interest does not exceed one-tenth of one percent of the outstanding securities of the business concern; or, if the interest is an unincorporated business concern, one percent of the net worth of such concern; or the financial interest of a corporation, person or firm does not exceed five percent of the net worth of the employee and his household relatives;
- (9) As a city councilman has a personal, financial or property involvement or close professional or social ties to the participants in any legislation or other matters coming before the council and fails to disclose such an interest on the records of the city council. The councilmember shall make public any conflict of interest the member has with respect to any issue under consideration by the council. The councilmember shall not participate in discussions of the subject and shall not vote on it. If the councilmember has only a casual association with the subject or parties, the member must state the relationship and then may fully participate. Any other official or employee who has a financial or other private interest, and who participates in discussion with or

gives an official opinion to the city council and fails to disclose on the records of the city council the nature and extent of such interest is in violation of this chapter;

- (10) Violates any ordinance or resolution of the city;
- (11) Violates the confidentiality of his position;
- (12) Makes any false statement or representation of any public record or document in a willful disregard of the truth of such statement or representation.

2.26.060 Confidential Information – Disclosure Prohibited.

No public official or public employee shall, while holding such office or employment, and for a period of one year after leaving city employment, shall disclose or use any confidential or privileged information gained by reason of his or her official position for a purpose which is for other than a city purpose; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request.

2.26.070 Adoption of RCW by reference – Exceptions.

RCW Sections 42.23.030 and 42.23.040 as the same exist now or may be hereafter amended are hereby adopted by reference and the provisions of these statutes shall apply to the conduct of all city officials. The exceptions and remote interests as set forth in these statutes shall be exceptions to the provision of Section 2.26.050

2.26.80 Penalties.

- (a) The violation or failure to comply with any of that provisions of this chapter is declared to be a misdemeanor punishable by a fine not to exceed one thousand dollars or by imprisonment in jail for a term not to exceed ninety days, or by both such fine and imprisonment.
- (b) Any employee whose conduct is determined by the city to be in violation of this chapter may be subject to disciplinary action, up to and including termination.
- (c) Any appointed official who violates or fails to comply with any provisions of this chapter may be discharged by the appointing authority.
- (d) Any elected official who violates or fails to comply with any provisions of this chapter may forfeit his or her elected office.
- (e) Any contract or transaction which is the subject of an official act or action of the city in which there is an interest prohibited by this chapter or which involves the violation of a provision of this chapter shall be voidable at the option of the city.

Section 2

Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 3

Effective Date. This ordinance shall take effect five days after its passage, approval and publication.

Passed by the City Council of the City of Clarkston, Washington, at a regular meeting thereof this _____ day of _____, 2015.

Kathleen A. Warren, Mayor

Attest:

Vickie Storey, City Clerk

Approved as to Form:

James Grow, City Attorney

ORDINANCE NO. 1544

AN ORDINANCE of the City of Clarkston, Washington, amending Ordinance No. 1514 and providing for other matters properly relating thereto.

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

Section 1. Capitalized Terms. Except to the extent otherwise defined herein, the words and phrases set forth in this ordinance with initial capitalization shall have the respective meanings ascribed to such words and phrases in the City's Ordinance No. 1514.

Section 2. Findings. The Council finds and determines that:

(a) The Council passed Ordinance No. 1514 on September 23, 2013. Ordinance No. 1514 authorized the City to issue its \$3,410,000 Sewer Revenue Bonds, 2013 (the "Bonds"). Section 2.12 of Ordinance No. 1514 authorizes the City to use Bond proceeds and other money in the Project Fund to pay the costs of the Project and to pay the principal of and/or interest on the Bonds. The Project was completed for a cost that was less than the City anticipated when it issued the Bonds. As a result, the City has approximately \$[515,000] of Bond proceeds (and investment earnings thereon) on deposit in the Project Fund.

(b) The City has a present need to make capital improvements to one or more lift stations that are part of the System. Such capital improvements, if made, will enhance the operational capacity and reliability of the System. To the extent the City can finance such capital improvements (and other necessary or desirable capital improvements to the System), the City can eliminate the need to pay the costs of such improvements using Revenue of the City or proceeds of Additional Bonds.

(d) Section 4.01(a)(1) of Ordinance No. 1514 authorizes the City to amend Ordinance No. 1514, without the consent of Registered Owners, to add to or delete from the covenants and agreements of the City in the ordinance, provided such additions or deletions do not adversely affect, in any material respect, the interests of the Registered Owners of any Bonds. It is necessary and desirable to amend Section 2.12 of Ordinance No. 1514 to allow the unspent proceeds of the Bonds to be spent for other capital improvements to the System. Such amendment will not adversely affect the interests of the Registered Owners because it will not affect the rights of Registered Owners, diminish the security for the Bonds or decrease the likelihood that the City will be able to pay the principal of and interest on the Bonds, when due.

Section 3. Amendment to Section 2.12. Section 2.12 of Ordinance No. 1514 is hereby amended to read as follows (~~stricken~~ words being deleted and double-underlined words being inserted):

Section 2.12 Project Fund. The Treasurer is authorized and directed to create and maintain a special fund separate and distinct from all other funds and accounts of the City, designated the "2013 Sewer Bond Project Fund" (the "Project Fund"). The City shall use the money deposited into the Project Fund, and the investment earnings thereon, to pay costs of the Project, including costs of issuance

and sale of the Bonds. The City may transfer money from the Project Fund to the Debt Service Fund to pay ~~(i)~~ interest accruing on the Bonds for up to six months after construction of the Project is completed, ~~and (ii) to~~ To the extent money remains on deposit in the Project Fund after all costs of the Project have been paid, such money may be used (i) to pay the principal of and/or interest on the Bonds and/or (ii) to pay the costs of capital improvements to the System (including design costs related thereto). Money in the Project Fund shall be invested and reinvested by the City to the fullest extent practicable. Interest earnings on any such investments shall be deposited in the Project Fund upon receipt. Notwithstanding the provisions for the deposit of earnings, any earnings that are subject to a federal tax or rebate requirement may be withdrawn from the Project Fund for deposit into a separate fund or account for the purpose of making payments necessary to comply with such requirement.

4. Effective Date. This ordinance shall take effect and be in force from and after its passage and five days following its publication (or a publication of its summary) as provided by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Clarkston, Washington, at a regular open public meeting thereof, this ___ day of _____, 2015.

CITY OF CLARKSTON, WASHINGTON

Kathleen A. Warren, Mayor

ATTESTED:

Vickie Storey, City Clerk

(S E A L)

CERTIFICATION

I, the undersigned, the City Clerk of the City of Clarkston, Washington (the "City"), hereby certify as follows:

1. The foregoing Ordinance No. 1544 (the "Ordinance") is a full, true and correct copy of the Ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on September 14, 2105, as that Ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after the publication of its summary in the City's official newspaper;

2. A quorum of the members of the City Council was present throughout the continued regular meeting and a sufficient number of members of the City Council voted in the proper manner for the passage of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand on _____, 2105.

CITY OF CLARKSTON, WASHINGTON

Vickie Storey, City Clerk

(S E A L)

Supplemental Tax Exemption and Nonarbitrage Certificate

I, Vickie Storey, the Clerk-Treasurer of the City of Clarkston, Washington (the "City"), do hereby certify as follows with respect to the above-captioned bonds (the "Bonds"):

1. The Bonds were issued on October 17, 2013 (the "issue date"), pursuant to Ordinance No. 1514 of the City (the "Bond Ordinance"), which was passed by the City Council on September 23, 2013. On the issue date, I executed a Tax Exemption and Nonarbitrage Certificate (the "2013 Tax Certificate") on the City's behalf. The 2013 Tax Certificate set forth the City's expectations as of the issue date regarding the City's use of the Bond proceeds. Capitalized words not otherwise defined herein shall have the meanings ascribed thereto in the Bond Ordinance.

2. The Project was completed for a cost that was less than the City anticipated when it issued the Bonds. As a result, the City has approximately \$[515,000] of Bond proceeds (and investment earnings thereon) on deposit in the Project Fund. On the issue date, the City did not expect to have excess Bond proceeds after the Project was completed.

3. On the date hereof, the City Council passed Ordinance No. 1544 of the City amending Section 2.12 of the Bond Ordinance to allow unexpended Bond proceeds to be used by the City (i) to pay the principal of and/or interest on the Bonds and/or (ii) to pay the costs of capital improvements to the System (including design costs related thereto).

4. The City has a present need to make capital improvements to one or more lift stations that are part of the System. The City expects the costs of such improvement will not exceed \$500,000.00, which costs the City expects to fund using money on deposit in the Project Fund. The City expects to spend such money in the Project Fund for costs related to the lift station improvements by December 31, 2016. Money remaining on deposit in the Project Fund after September 23, 2016 (*i.e.* the third anniversary of the issue date) will be invested only in Restricted Yield Investments (as defined in the 2013 Tax Certificate) after such date.

5. To the extent the City does not fully expend the remaining balance in the Project Fund for capital improvements to the System, the City will use such money to pay the principal of and/or interest on the Bonds.

6. To the best of my knowledge, information and belief, except as otherwise described herein, the City's expectations with respect to the Bonds set forth in the 2013 Tax Certificate remain the expectations of the City as of the date hereof, and the expectations of the City on the date hereof about future events in connection with the Bonds and the proceeds thereof are reasonable.

DATED as of September 14, 2015.

CITY OF CLARKSTON, WASHINGTON

Vickie Storey, Clerk-Treasurer

City of Clarkston
Public Works Director
829 5th St.
(509) 758-1662
(509) 769-6019fax

Memo

To: Council
From: James E. Martin, PWD
CC: Mayor Warren
Date: Aug. 20, 2015
Re: Sewer Lift station Improvement Needs

During our WWTP upgrade, there were a number of conversations about our sewer collection system. A weak link in our system is our antiquated lift station located on Sunrise Drive in the southeast area of town. It has been discovered that our good pricing and low change orders for the plant upgrade has provided some available funding from the sewer bond to make much needed improvements.

The Sunrise Drive lift station was constructed back in the early 1970's and to my knowledge no upgrades have been provided since initial installation. Given the location of the lift station, we have a time bomb of possible residential sewer backups and flooding in the event of a failure.

The bonding providing funding for the plant upgrade left us approximately \$515,000.00 that can be legally spent on improvements relating to the lift stations including planning and engineering. Attached is the necessary Ordinance authored by the bonding agent to allow the expenditure and a contract addendum for Keller Associates to do the necessary planning and engineering.

Until further investigation occurs, we are expecting the improvement project to run between \$300K and \$500K. Yes, expensive but we have the funding and have dodged a bullet for many years. I hope Council sees this opportunity to make a much need infrastructure improvement without having to increase utility rates.

Thanks for your consideration,

Jim



**ADDENDUM NO. 8
TO AGREEMENT FOR
Wastewater Treatment Plant Engineering Services**

between
KELLER ASSOCIATES, INC.
and
CITY OF CLARKSTON, WA

KA Project # 209090-002

INTRODUCTION

This addendum modifies the Scope of Work and defines compensation for Engineering Services Provided during Design, and Construction between Keller Associates (“CONSULTANT”) and the City of Clarkston, WA (“OWNER”) under the original contract agreement dated September 16, 2009. Any conflicting provisions will be resolved in favor of this Addendum.

The City of Clarkston has asked that the Consultant conduct a warranty walkthrough at their wastewater treatment plant project now that the project is nearly a year completed. Additionally, the City owns and operates two aging sewage lift stations, the Sunset Lift Station located on Sunrise Drive, east of 7th Street, and the Port Lift Station located on Port Drive, midway between 13th and 14th Streets. This project will entail pre-design engineering support services for the Sunrise and Port Lift Stations. Final Bidding, design, and construction services will be outlined on future addenda.

The following scope and budget modifications are proposed to address the additional services required:

SCOPE OF WORK

Add Task 3.13 as follows:

***“Task 3.13: WWTP Warranty Walkthrough*”**

Consultant Tasks

1. Warranty Walkthrough: Consultant shall provide a Warranty walkthrough and document warranty items in an email/letter report to the Owner. If additional support or follow up on the warranty items is requested, it can be provided on a time and materials basis per the Consultant’s standard billing rates.

Owner Tasks

1. The Owner will provide a field representative to walk the wastewater treatment plant site with the Consultant.

Deliverables

1. Warranty items email/letter.

Schedule

The Consultant will complete the site walkthrough and documentation letter by May 31, 2015.

Compensation

The Consultant will be reimbursed for a lump sum amount of \$3,000.00 (Three thousand dollars) for completion of Task 3.13.”

Add Task 3.14 as follows:

“Task 3.14: Sunrise and Port Lift Station Preliminary Engineering Report

Consultant Tasks

1. Sunrise Lift Station Evaluation:
 - a. Site Visit – Consultant will visit and inspect lift station site with the Owner’s representative. This includes collecting data such as exposed pipeline size, pump/motor nameplate information, and overall condition of the lift station. This information will be used for capacity evaluation and identify potential maintenance concerns. If pressure information and suitable flow is available, Consultant will perform a pump test.
 - b. Research and Analysis – The Consultant will use motor and nameplate data, as well as existing operation & maintenance manual data (Owner has already supplied Consultant with a copy) to assess the capacity of each pump and the wet well. Additionally, Consultant will contact the pump manufacturer to obtain any additional pump and wet well information. The Consultant will coordinate with the Owner to determine the service area contributing flows to the Sunrise Lift Station. The Consultant will coordinate with the Owner to compute and average flows and peaking factors. If the Owner does not have standard residential wastewater flow rates, the Consultant will estimate flows from industry standard flows and peaking factors. It is assumed that the lift station service area is completely built-out therefore no growth projections or future flow calculations will be performed.
 - c. Regulatory Compliance – The Consultant will review the Department of Ecology’s (Ecology) latest regulatory compliance standards for public sewer lift stations. Deficiencies will be documented and included in the PER.
 - d. Alternatives Analysis and Recommendations – The Consultant will evaluate up to four (4) alternatives. Planning level cost estimates will be prepared for each. Based on prior correspondence with the Owner, these four alternatives are assumed to include the following:
 - i. No action
 - ii. Replace pumps and retain existing wet well at current location
 - iii. Replace pumps and existing wet well at current location
 - iv. Relocate the lift station to a new location

2. Port Lift Station Evaluation:

- a. Site Visit and Analysis – Consultant will visit and inspect lift station site. Consultant will use an auto level to determine invert depths in relation to each other. These depths will not be tied to an actual elevation or benchmark. Inspection services under this task include the following:
 - i. Port lift station wet well to determine the direction and inverts of connecting gravity pipelines.
 - ii. Manholes and pipeline inverts that gravity feed into the lift station. It is assumed that there are two (2) connected manholes based on available Asotin County GIS information.
 - iii. Up to two (2) manholes and corresponding pipe inverts east of the lift station on the Owner's gravity collection system (near intersection of Port Drive and 13th Street).
 - iv. Up to two (2) manholes and corresponding pipe inverts west of the lift station on Asotin PUD's gravity collection system (near intersection of Port Drive and 14th Street).
 - b. Alternatives Analysis and Recommendations – The Consultant will evaluate data collected from the Site Visit to determine if the lift station can feasibly be abandoned. Planning level cost estimates will be developed if necessary. Up to two (2) abandonment scenarios will be evaluated, which include the following:
 - i. Connect and gravity flow to nearby City of Clarkston owned gravity sewer system.
 - ii. Connect and gravity flow to nearby Asotin PUD owned gravity sewer system.
3. Project Meetings: For budgeting purposes, it is assumed that a total of two (2) project meetings will occur; a Kickoff Meeting and one (1) Design Review Meeting prior to submittal of the PER to Ecology. The Consultant will prepare meeting agendas and minutes.
 4. PER: The Consultant will summarize its findings in a PER. A Draft PER will be submitted to the Owner for review. The Final PER will address comments from the Owner's staff. The Consultant will then submit the Final PER to Ecology for review and will respond to their comments if any. It is not anticipated the Ecology funding requirements will apply.

Owner Tasks

1. The Owner will provide access to the existing lift stations. If a pump test is performed, the Owner will provide the water for the pump test.
2. Attend and host project meetings with the Consultant.
3. Provide and comment on draft documents in a timely manner.
4. Provide input on the Sunrise Lift Station service area.
5. Provide a list of known lift station deficiencies.

Deliverables

1. 1 hardcopy of the Draft PER.
2. 2 hardcopy and 1 PDF electronic copy of the Final PER.

Schedule

The Consultant will complete the evaluation and provide a draft preliminary engineering report within 30 days of receiving a signed contract. Consultant will provide final stamped report once Ecology approval has been received.

Compensation

The Consultant will be reimbursed for a lump sum amount of \$16,700.00 (Sixteen thousand seven hundred dollars) for completion of Task 3.14.”

FUTURE TASKS

The Consultant will provide additional services as requested by the Owner. These services will be completed on a separate lump sum basis with written authorization from the Owner and could include tasks such as: Final Design, Bidding Assistance, and Construction Administration for the Sunrise and/or Port Lift Stations.

All other items of this agreement for engineering services dated September 16, 2009 and amended in previous addenda shall remain unchanged.

In witness thereof, the parties hereto have executed or caused to be executed by their duly authorized officials this Addendum No. 8 to the Agreement in duplicate on the respective dates indicated below.

OWNER: CITY OF CLARKSTON, WA

CONSULTANT: KELLER ASSOCIATES, INC.

By: _____

By: _____
Rod J. Linja, P.E.

Title: _____

Title: President _____

Address: 830 Fifth Street
Clarkston, WA 99403

131 S.W. 5th Avenue, Suite A
Meridian, Idaho 83642