



**CITY OF
TUMWATER
CITY COUNCIL
MEETING AGENDA**

**Online via Zoom and In Person at
Tumwater City Hall, Council Chambers,
555 Israel Rd. SW, Tumwater, WA 98501**

**Tuesday, September 03, 2024
7:00 PM**

- 1. Call to Order**
- 2. Roll Call**
- 3. Flag Salute**
- 4. Special Items:**
 - a. Joint Animal Services Update (Sarah Hock, Executive Director Joint Animal Services)
 - b. Tumwater Retail & Tourism Visitor Center (Chris Sieg & Dave Perreira, Tumwater School District)
- 5. Public Comment:** (for discussion of items not having a public hearing on tonight's agenda)
- 6. Consent Calendar:**
 - [a.](#) Approval of Minutes: City Council, June 4, 2024
 - [b.](#) Approval of Minutes: City Council, August 20, 2024
 - [c.](#) Payment of Vouchers (Finance Department)
 - [d.](#) Resolution No. R2024-014, Surplus Property (Finance Department)
 - [e.](#) Right of Entry Agreement with Jason Herrera for Belmore Street Property (Public Works Committee)
 - [f.](#) Israel Road and Linderson Way Pedestrian and Bicycle Improvement Project – Fiber Optic Agreement with WSDOT, Amendment No. 16 (Public Works Committee)
 - [g.](#) 2023 Pavement Maintenance Project with Miles Construction – Increase Change Order Authority (Public Works Committee)
 - [h.](#) Audit Engagement Letter (Budget & Finance Committee)
- 7. Council Considerations:**
 - [a.](#) Executive Department FTE Adjustments and New Position: Economic Development Coordinator (Budget and Finance Committee)
- 8. Committee Reports**
 - a. Public Health and Safety Committee (Peter Agabi)
 - b. General Government Committee (Michael Althausen)

- c. Public Works Committee (Eileen Swarthout)
- d. Budget and Finance Committee (Debbie Sullivan)

9. Mayor/City Administrator's Report

10. Councilmember Reports

11. Any Other Business

12. Adjourn

Hybrid Meeting Information

The public are welcome to attend in person, by telephone or online via Zoom.

Watch Online

Go to <http://www.zoom.us/join> and enter the Webinar ID 882 6095 0175 and Passcode 317344.

Listen by Telephone

Call (253) 215-8782, listen for the prompts and enter the Webinar ID 882 6095 0175 and Passcode 317344.

Public and Written Comment

Attend in person to give public comment or register by 6:45 p.m. the day of the meeting to provide public comment using the web-based meeting platform:

https://us02web.zoom.us/webinar/register/WN_OTX6Up8kTOi1TfKegzfbPA

After registering, you will receive a confirmation email with a login to join the online meeting.

As an alternative, prior to the meeting, the public may submit comments by sending an email to council@ci.tumwater.wa.us, no later than 5:00 p.m. on the day of the meeting. Comments are submitted directly to the Mayor and City Councilmembers and will not be read individually into the record of the meeting.

Post Meeting

Video recording of this meeting will be available within 24 hours of the meeting.

Accommodations

The City of Tumwater takes pride in ensuring that people with disabilities are able to take part in, and benefit from, the range of public programs, services, and activities offered by the City. To request an accommodation or alternate format of communication, please contact the City Clerk by calling (360) 252-5488 or email CityClerk@ci.tumwater.wa.us. For vision or hearing impaired services, please contact the Washington State Relay Services at 7-1-1 or 1-(800)-833-6384. To contact the City's ADA Coordinator directly, call (360) 754-4129 or email ADACoordinator@ci.tumwater.wa.us

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CONVENE: 7:00 p.m.

PRESENT: Mayor Debbie Sullivan and Councilmembers Peter Agabi, Michael Althausen, Joan Cathey, Leatta Dahlhoff, Angela Jefferson, Eileen Swarthout, and Kelly Von Holtz.

Staff: City Administrator Lisa Parks, City Attorney Karen Kirkpatrick, Finance Director Troy Niemeyer, Community Development Department Director Michael Matlock, Police Chief Jon Weiks, Fire Chief Brian Hurley, Parks and Recreation Director Chuck Denney, Transportation & Engineering Director Brandon Hicks, Water Resources & Sustainability Director Dan Smith, Transportation & Engineering Assistant Director Mary Heather Ames, Engineering Services Manager Bill Lindauer, and City Clerk Melody Valiant.

**CHANGES TO
AGENDA:**

MOTION: Councilmember Dahlhoff moved, seconded by Councilmember Von Holtz, to amend the agenda adding a discussion under Council Considerations on three proposals regarding the Davis-Meeker oak tree that were forwarded to the Council and the Mayor on Sunday, June 2, 2024. A voice vote approved the motion unanimously.

SPECIAL ITEMS:

**2023 OFFICER OF THE
YEAR - KELLY
CLARK:**

Police Chief Weiks reported the 2023 Officer of the Year is Police Officer Kelly Clark. In his 25 years with the Tumwater Police Department, Officer Clark is unaffected by the day-to-day changes and drama of the job as he projects a singular focus of doing the work, doing it right, and doing it together. Routinely, Officer Clark goes out of his way to assist fellow officers offering his experience and expertise in any way that might help, particularly for younger officers. Officer Clark is a role model, a steady professional, and a reliable partner. This past year, no other officer has worked a more unstable schedule as he covered gaps in the patrol schedule while maintaining responsibilities as the only officer currently serving the Metro Program.

Police Chief Weiks presented Officer Clark with a plaque from the Tumwater Police Officer's Guild recognizing Officer Clark as 2023 Officer of Year in recognition of his dedication and service to the citizens of Tumwater. Police Chief Weiks presented Officer Clark with an American flag flown over the nation's capitol and the state capitol.

Officer Clark said he was honored and humbled to be working with a great team in the Tumwater Police Department. He introduced his wife and stepson and thanked them for their support.

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**PROCLAMATION:
LGBTQIA2S+
COMMUNITY PRIDE
MONTH, JUNE 2024:**

Mayor Sullivan read a proclamation declaring *June 2024 as LGBTQIA2S+ Community Pride Month* calling upon the people of the City of Tumwater to join in celebrating diversity, promoting inclusion and equal protection under the law, and encouraging everyone to join in eliminating discriminatory policies and practices toward any culture, race, or group.

**OPEN PUBLIC
MEETINGS ACT
(OPMA) TRAINING BY
THE ATTORNEY
GENERAL'S OFFICE:**

City Attorney Kirkpatrick introduced Morgan Damerow with the Washington State Attorney General's Office, to provide training on the Open Public Meetings Act (OPMA) in response to a request during the Council's January retreat.

Mr. Damerow reviewed the significance of open government and expectations of the OPMA and the importance of receiving training within 90 days of assuming an office and every four years thereafter to ensure awareness of any changes.

Mr. Damerow reviewed the historical context of OPMA and the reasons for implementation and enforcement of the OPMA. Elected officials assume personal liability for knowledge of violations of the OPMA and can be fined \$500 by the court and \$1,000 for each subsequent knowing violation. Sometimes the court will rule some decisions null and void when rendered during violation of the OPMA.

The current OPMA was implemented in 1971 based on expectations that all actions, deliberations, and conversations must occur within the public forum. One of the most recent changes emerging from the COVID pandemic was the substantial increase in public participation. The OPMA is designed to serve as the environment of informed decisions and informed knowledge about the decision-making process.

All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise permitted by RCW 42.30. A governing body includes multimember boards, commissions, councils, or other policy or rule-making bodies of a public agency. The OPMA does not apply to courts, the Legislature, private organizations, or for certain activities by government entities.

Agencies are encouraged to provide remote access that does not require additional cost to access a meeting. A meeting is a public agency taking action by a majority of its members (quorum). Physical presence is not required as a meeting can occur by phone or email. A meeting does not need to be titled "meeting" because it may be a retreat, workshop, or study session, etc. Meetings of a governing body must be open to the public to attend when acting on the public's behalf or receiving public

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testimony or public comments. Although several members passively receiving information outside of a meeting is generally okay it can be troubling as it could lead to later decisions. Off-meeting communications or sharing of information between members should be through an intermediary to avoid direct communication between members that might result in a quorum.

Discussions during an executive session remain confidential; however, any decisions must occur during a public meeting.

The OPMA applies to the entire meeting process and not necessarily to only actions reaching a resolution. All final decisions are subject to the OPMA. Secret voting is prohibited. The bedrock principal of the OPMA is public attendance with no conditions required.

In response to questions about questionable subjects discussed during an executive session, Mr. Damerow advised members to review RCW 42.30.100 provisions for guidance on matters eligible for discussion during an executive session. He encouraged members to self-police should the conversation veer from a municipal purpose.

A public agency cannot place restrictions on the public to attend meetings subject to OPMA. Reasonable rules of conduct can be set. A governing body may adopt generally applicable conditions determined to be reasonably necessary to protect public health or safety or to protect against interruptions. Agencies are encouraged to provide remote access that does not require an additional cost to access the meeting.

Public comment may be oral or written. If oral comment is accepted, the governing body shall, when reasonable, provide people with a disability, limited mobility or any other reason that makes physical attendance difficult, the opportunity to make oral comment. The governing body may limit comment on items not on the agenda, and put guidelines in place for public comment i.e. time limits. Written testimony must be distributed to the governing body prior to the meeting and reasonable deadlines should be established for submission of written testimony.

Types of meetings include regular meetings, special meetings, and emergency meetings. Regular meetings are recurring meetings held in accordance with a periodic schedule by ordinance, resolution, bylaws, or other rule. Regular meetings must include an agenda available online at least 24 hours in advance of the meeting. Agendas can be modified during a meeting. However, legal actions at a regular meeting where the agenda was not posted 24 hours in advance can be invalidated. Some very small agencies may be exempt.

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Special meetings can be called by the presiding officer or a majority of the members with 24 hour written notice of the time, place, and business to be transacted. Exception is possible when the notice cannot be posted with reasonable safety. The meeting agenda cannot be modified. Sufficient information about the reason for the special meeting is also required.

Emergency meetings require no notice when called to deal with an emergency. An emergency involves injury or damage to persons or property or the likelihood of such injury or damage and where time requirements of notice make notice impractical and increase likelihood of such injury or damage. A good example of an emergency meeting occurred during the Mount St. Helen's eruption. Economic loss is not sufficient to call an emergency meeting. In an event of a declared emergency at the local, state, or federal level, the public body may conduct an all-remote meeting without a physical location or hold a meeting with governing body present but some or all of the public excluded. Requirements for remote participation include a declared emergency at the local, state, or federal level or when the public body determines it cannot hold a meeting in person with reasonable safety where members or public are attending. The public must be able to listen, and if not, the meeting is prohibited except for an executive session. Notice of meeting must include remote participation instructions. Individual governing body members may participate remotely during non-emergency meetings as well.

An executive session is part of a regular or special meeting that is closed to the public and is limited to specific purposes. The purpose of the executive session and the time it will end must be announced by the presiding officer before it begins. Extension of an executive session must be publicly announced prior to the end of the original end time. The purpose of executive session must be included within the meeting minutes along with extended meeting time(s) if applicable.

Minutes of public meetings must be promptly recorded and open to public inspection. Minutes of an executive session are not required. The format of minutes is not specified in law. An executive session purpose must be recorded in the minutes. Minutes are required to be approved and can be amended by a motion.

Mayor Sullivan thanked Mr. Damerow for providing training on the Open Public Meetings Act.

PUBLIC COMMENT:

Mayor Sullivan outlined the format for providing public comment. Public comments are restricted to three minutes for each individual.

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Marnie Jackson, Langley, Washington, commented on the ease of cutting down a tree and the impossibility of putting it back. Considering whether to proceed with the planned removal of the Davis-Meeker Garry oak tree, the Council should take time to allow due process in the actions of the Court of Appeals, to allow reflection and response from local tribes, and to consider kestrel nesting sites and legal requirements to leave raptors undisturbed. Additionally, the Council should consider the resounding feedback from the community. As elected officials, the Council serves the public. The public does not want the 400-year old tree, middle aged for its species, to be killed. If it is determined next year, next decade, or the next century that the people want their elected officials to remove the tree for the public good then it would not be too late to do so. Today, however, it is far too early. The cities of Quebec and Jamestown were new colonies when the oak tree sprouted, Rembrandt and Cyrano de Bergerac were children, the Ming Dynasty ruled China, and Europe was embroiled in a 30-year war. Given what this tree has survived and how short our time is in comparison, the Council should afford the process more time for the due consideration that it deserves. Halt the planned cutting of the Davis-Meeker oak and allow time to consider alternative solutions for planned infrastructure improvements.

Christina Manetti, 6925 Hillgrove Lane SW, Lakewood, Washington, said she it appears Tumwater is ignorant of the facts. As a result, the City is acting in violation of the Department of Fish and Wildlife, which is supposed to inform the City's policymaking.

Due to technical difficulties, Ms. Manetti advised that she would reconnect to the meeting using a different computer.

Tichomir Dunlop, 6925 Hillgrove Lane SW, Lakewood, Washington, spoke to his disappointment after learning the Council was planning to cut down the oak tree. He urged the Council to reconsider. As a resident of Lakewood, he has watched how Lakewood has completely disregarded the importance of trees by continually allowing trees to be removed. At first, he believed it was only a problem in Lakewood, but recently learned Tumwater is even more brashly disregarding the importance of Garry oaks, which is disheartening. The oak tree is probably one of the most impressive Garry oaks that he has seen. To cut it down because it might be theoretically a risk to traffic is inconceivable as every tree drops branches occasionally. He questioned whether that action would result in cutting trees because of single branches falling. The tree has been there for centuries and has a connection to native people. He urged the Council to listen to what everybody is urging and do not cut it down. The Council should reconsider.

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Beowulf Brower, Olympia, Washington, commented that he does not intend to grill the Council on the quality of the risk assessment completed on the tree or that the City is violating the federal Migratory Bird Treaty Act, the associated RCW for the state of Washington, the wanton violation of the Tumwater Municipal Code, or falsehoods perpetrated by certain City staff concerning the tree. Those points have been made and will be made, as they are all demonstratively true and are not the fault or the doing of this Council. The Council as the legislative branch has the power to vote on actions and pass laws and ordinances and should not let the Executive Branch, Port of Olympia, or anyone else deprive the Council of its ability to represent its constituents. God willing, the Council will have the chance to allow this wrong to be righted. Listen to the citizens, listen to the science, as it is loud and clear. Always seek a second opinion. He questioned whether the Council would not grant it for an elder of the nation. As witnessed recently, a late season windstorm came across the area and dozens of trees fell across the county as they always do. However, the oak and the alleged hazard that scantily clings to stability if one is to believe the report did not have a single twig fall from the tree. The oak tree cannot speak in its defense but he postulates that if it seeks to show what has enabled it, he prays the Council will listen.

Sue Danver, 7106 Foothill Loop SW, advised that she would forfeit her time for other speakers and would submit written comments.

Steve Erickson, P.O. Box 53, Langley, Washington, said he lives on Whidbey Island and is a botanist, a restoration ecologist, and an activist. He urged the Council to act to prevent the tree from being cut down. What the Council does will reflect not only Councilmembers, but on the body of the City Council for years to come. In Oak Harbor, a large old oak tree approximately 350 years old was located near the post office. There were concerns about its condition creating a public controversy. The mayor and city council met in secret, made plans, executed the plans, and cut the tree down at 5 a.m. on a Sunday morning. If the Council enables removal of the oak tree, it reflects on the Council for years to come even when members no longer serve. In Oak Harbor, people do not trust their elected officials even after a decade after the tree was removed. The City of Tumwater has a rogue Mayor who is ignoring federal law of the Migratory Bird Treaty Act, ignoring state law regarding historic and archeological resources, and ignoring local law as the City's Historic Preservation Commission refused an exemption and variance to allow for the removal of the tree. This is the time during each elected official's public service when there is an opportunity to exercise oversight and act in the greater long-term public good. The Mayor is attempting to evade the laws as mentioned, and the reality is that after 5 p.m. tomorrow afternoon, the tree and the nesting kestrels will be cut down as fast as the Mayor is able to arrange.

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Once the tree is removed, it cannot be replaced and it does not matter if other arborist's opinion believe the tree could be saved, it does not matter what the laws are as the tree will be gone and the birds along with a significant portion of the history of Tumwater and native people who lived in the area. He urged the Council to take whatever steps necessary to prevent the tree from being cut down.

Mik Miazio, resident of Shelton, Washington, reported he has been an arborist for 15 years and a certified arborist and tree risk assessor for more than a decade. The Davis Meeker oak tree is not dying. It is a notion perpetuated by people who want to remove the tree. Last Friday, he went to court to watch the challenge against the restraining order to save the tree. The City represented the parties desiring to cut down the oak, which are perpetuating the notion that the tree is dying. He cited the arborist's report, which he believes is not indicative of the tree dying. The Council should hold those individuals accountable for the misinformation they are spreading. While standing under the tree, it is possible to see that the tree is in good health for a 400-year old tree. He was born in Poland and came to the country to live his American dream to be an arborist. That is why he moved to the state of Washington, primarily for the trees and nature. The 400-year old tree was alive at the time when air was pure and water could be drunk from rivers and streams. Although the tree is not considered old growth because of its singularity, the oak is equal to Douglas firs that are eight feet in diameter or the redwoods. The tree is in the same category. The tree dropped a branch, which is another notion perpetuated as the branch did not fall into a lane of traffic as a part of the branch that fell did fall into the lane with the majority of the branch falling in an area under the tree. The process of identifying targets and the possibility of harm is a due process that occurs when considering actions with respect to the tree. Those trees are the remaining trees of a prior beautiful ecological system and should not be cut down.

Dani B asked the Council not to murder the tree. So many in the community are unaware of the danger facing the icon, which has been a fixture in the community for much longer than anyone alive today. The tree was here long before our grandparents were born. The Council should not quietly take it down without giving the people who love it, more chances to speak in its defense. If it must go, a meaningful chance is necessary to say goodbye before the tree is removed. The Council should not kill it without first fighting to save it. Communications with the public have indicated there are other options and local arborists specified how feasible those options could be with pruning and cables. The risks, which many arborists indicated were overstated, could be mitigated. The tree should be cared for, not killed. Public safety is always a concern but there are risks everywhere in life and every tree could potentially fall. She asked whether the City has studied every tree

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near roads in Tumwater with the same degree of scrutiny and whether buildings on the historic register align with current safety codes. It would be hypocritical to destroy the tree for its supposed dangers if other risks have not received similar attention. As a lifelong resident of Western Washington, she is familiar with the danger of falling trees and even experienced some narrow escapes. However, she loves and values trees even after one tree fell on her car. Even the healthiest tree can be uprooted and fall across the road because it happens often. The state is not considered The Evergreen State lightly because trees are part of the state's identity and the oak tree is part of the community. If a loved one was sick and treatments were available she questioned whether Councilmembers would not seek treatment because it was too expensive, as it appears that is what is occurring in this situation. The tree has a long history of people investing in it. Repeatedly throughout the decades, people have spoken saying that this tree is important and it should be protected. The tree was so important that it was given special status to try to prevent it from being carelessly destroyed. The tree has survived countless earthquakes, storms, and witnessed every milestone in the nation's history. As a teacher and a mother she finds herself more and more understanding of their rights when they say that we do not inherit the earth from our ancestors, we borrow it from our children. We cannot uncut the tree because once it is gone it is gone. She wants her children's children to judge the City's actions and record of efforts to repair and save it rather than using their power against the will of the people.

Jenna Cook Holmlund, 2415 92nd Court SE, Tumwater, said she feels passionately about the tree because she drives by the tree every day and it resonates with her because she is a Native American woman. Removal of the tree would be an awful and terrible act because it is such a beautiful tree that has stood the test of time through even her ancestors. She is against the tree being cut down and hopes everyone reconsiders how removing the tree would leave an empty space to make the road or airport bigger. Many things could be built at that location, but the tree would never be there.

Nicole Mercier, 210 Mark Street, NE, said she spoke to a representative from the US Department of Fish and Wildlife Service who plans to complete an assessment of the tree regarding the kestrels. She is vehemently opposed to the removal of the tree and believes it is a hasty move. It is a rush to do this for whatever reason that she cannot imagine. The area had a huge windstorm earlier in the day and nothing fell from the tree. That should give everyone an idea of the unfairness of the rush to remove the tree because more information and assessment is needed. She read all of the assessments and does not believe it was a true assessment or proper and correct. More information is needed. If removal is proposed because of someone's death then it would have

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to be removed; however, she does not believe there is any evidence to support its removal.

Pamela Hansen, P.O. Box 14521, Tumwater, said she does not agree with the cancellation of the June 18, 2024 regular Council meeting. Regarding the \$1.7 million overrun of the Capitol Boulevard/Trospen Road roundabout, she does not agree with increasing staff authority to pay the overrun as it needs to occur during an open public meeting and with a review. During Mayor Osgood's administration in the 1980s both Ralph Osgood and she reported to the Comptroller of the Department of Revenue. That is her connection with Mayor Osgood. He served as Mayor during the development of the City's first Comprehensive Plan. Mayor Osgood's style when an issue was important was to present the issue to the Council for a vote. It is of a sufficient size of an issue that it needs to occur during a public meeting. She referred to a flyer of a picture reflecting the area of the oak tree where the branch separated from the tree. The area of the tree was bark, not rotted wood. In another picture, it appears that a drawn red line overshoots the side of the tree that she considers an exaggeration. Another picture of the cross section of the tree may be an exaggeration because although it reflects the X-axis and Y-axis, the Z-axis is missing. She questioned the size of the area. She cited a press release of June 3, 2024 from the davismeekeeroak.org website. She attended the court hearing on Friday but was not present during the events occurring on Monday, which should be reflected in the record. She supports the article on, 'Save the Davis-Meeker Garry Oak group leading multi-prong effort to save historic Tumwater tree' written by Jeffrey Westbrook with *The Jolt*.

Laura Webber calling from Surrey County, Virginia, reported she was a resident of Tumwater and attended Tumwater High School. She remembers the oak tree and has been so moved by the community's efforts to save the tree. She is a history teacher teaching the history of America and lives across the river from Jamestown where the country was established. She teaches 400 years of history and the tree embodies those teachings. She remembers growing up in Washington and feeling that there was not much regard for history and that people did not care that much about history as it was always about progress and new development, which is what America has become. She sees it around her as development tears down the old disregarding the environment and history. Within her area, it speaks to the expansion of industrial solar farms; however, in this instance, it is about a story of a community, the history of Washington, and people who traveled to and settled in Washington. It is a story of the Native American tribes, a story of the environment and animals that have lived there. It is the story of Washington. If the tree cannot be saved, she is uncertain as to what is important for history and why anything would be saved. She believes

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it is crazy that the City is intent on destroying one tree, which embodies so much of the story of Tumwater and the community. The Council should stop, slow down, and take some time, as there is no rush as the tree has stood for 400 years. The recent storm speaks volumes as the tree stood tall and strong. The Council should exercise patience, slow down the process, listen to the community, and think about how the story of Tumwater is embodied within the tree.

Chris Kautsky, 908 Delta Lane, Tumwater, said she is an environmental planner and a member of the American Planning Association and is ACIP certified. As such, the principles of her profession compel her to speak out against the decision by the Mayor to exercise administrative authority to cut down the Davis-Meeker oak tree. The tree means much to her. Others will remind the Council of its age and the meaning of the tree to native people, the history of the Oregon Trail, its beauty, and how it is sheltering federally protected wildlife. When she drives past the tree, the road may jog around it, but she sees something else. She sees how her government balances the needs of modern life with the desire to preserve community heritage. The little jog tells her that Tumwater is a good place to live. It is City government's responsibility to figure out how Tumwater will fit within an economy where unique experiences are highly valued. The tree can be cherished for its place in the history of Tumwater and play a role in the future. Time is needed to find inspiration to identify and explore creative alternatives and reduce risk. The Mayor tells the community that the tree is not safe and if it fails the consequences would be dire. She reminded the Council that life is risky business and everyone assumes risks every day. She questioned why the only option was the irrevocable death of the tree's life. She asked about pruning, moving the road, or considering real solutions. The optics look bad with respect to the appeal of the temporary restraining order and a rush to demolition, as it speaks to talk within the community of hidden agendas, backroom politics, and secret partnerships. She asked whether this situation is what the Mayor promised when she campaigned for office. After staffing many public meetings over the years, she is aware that each person that attends a meeting or gives a comment is standing for hundreds who do not have the time, do not understand the process, or feel their voice does not matter. Councilmembers should look at the people in the room and listen as they share what they value. The truth is policy is made by those who show up and many people have shown up. She asked how much interest there is for ongoing City business. How the Council handles this challenge will show exactly how the City values its public engagement. Instead of hiring lawyers, the City needs to hire a facilitator and bring all interested parties together of officials, city planners, scientists, arborists, tribes, and wildlife biologists to work towards a compromise and take action. It is not too late, as the tree still stands. The community needs action by the Council as leaders in the

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room by overriding the Mayor's decision and embracing public comment and public engagement.

Tasha Smith, resident of Olympia, thanked everyone for attending the meeting. She would like to have a conversation with the Council, as she believes members would have much to say about the community and their respective feelings about the tree and the kestrels. She and her children love birds and they know about the migratory bird tree act. The act was initiated through cooperation between America and Canada to protect birds traveling back and forth between the countries. The kestrels are from the falcon family in the Migratory Bird Treaty Act and are protected not just from hunting but also for other reasons. The Council should afford time for the birds to grow, mature, and move and not cut down the tree and destroy the nest and the birds.

Ray Gleason, 6226 Cedar Flats Road, Olympia, commented that the Davis-Meeker oak tree is an extremely rare remnant of the oak savannah that existed in Western Washington and Western Oregon. In its age class in Western Washington, there are less than 20 trees remaining. To think that the City is considering removing the specimen without further assessment is not mindful of the uniqueness of that specimen that is irreplaceable and was living during a time when the area was only grassland with Douglas fir trees only existing near creeks and rivers. When considering the completed assessment, only one image was included of the sonic tomography at the base of the tree. Personally, he believes the City should consider the public for a positive outcome. As a scientist, he looks at the sonic tomography as a great way of measuring a tree's health. Looking at it only from the base is inappropriate. The analysis should have been completed multiple times throughout the entire canopy of the tree. That type of analysis is an aerial analysis. The assessment did include an aerial analysis; instead, a rubber mallet was used by hitting the trunk of the tree and listening to determine any hollowness in the tree, which is based on interpretation and not appropriate. The drawn red line on the tree depicted the outcome as correct, which is inaccurate. He would not utilize that type of health analysis. Public funds were paid for that inappropriate analysis. An independent third party is needed for the public to have an appreciation for the City of Tumwater. He asked for respect for the public's time and for future respect for the City of Tumwater.

Margaret O'Conner said her comments pertain to a middle-aged 400-year-old historic tree. Fundraising is underway for lawyers for both sides of the issue in addition to taxpayer funds. She questioned why those funds have not been devoted to the care of the tree. On the City's website, the City's arborist has overseen the care of the tree for 27 years. She believes he has failed, yet the City listens to the arborist. Roads can be moved. The road needs to be moved to help the tree. Physical

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supports are available for large trees involving corbels, cantilevers, guide wires, and stations. Engineers know how to install physical supports. The Mayor has indicated she would not want to face the family of someone who experienced a loss because of a falling branch from the tree. One answer to alleviate that situation is to step down as Mayor and no longer control the situation. She knows that the ground and the tree are located on the Cowlitz Trail, a site of burials for both native people and those who came after. She urged the City to leave the tree, its heritage, and everything it stands for by helping the tree live another 400 years for future generations by moving the road.

Mark Fleming, 2110 Sunset Street SE, Olympia, asked the Council not to cut the tree down. If the tree is a risk, the City should mitigate it, evaluate it, and find ways to address the situation. As previous speaker noted, engineers and expertise are available. Taking time to evaluate thoroughly whatever risk a 400-year old tree presents is a good way to preserve the City's heritage and culture. He urged the Council to do so.

Bev Bassett, 1218 Marion, Olympia, spoke of the deep irony of the evening spending 45 minutes being informed about the Open Public Meetings Act. The world has transitioned far from the 1970s when laws were written by well-intentioned people who did not have hidden agendas and who expected their government to act in the best interest of its citizens. Today, democracy has gone to hell. The nation is looking down the barrel of laws with little democracy remaining. She attended Port of Olympia meetings for four years and rarely missed a meeting and learned about the corruptness of the Port. It made it so ill she discontinued attending meetings in 2017. She does not believe the tree is being cut down for safety, as she knows the reason is to expand the airport. The City is just checking off the boxes while the Mayor lets the public attend and speak while ignoring comments and moving forward later in the week to remove the tree. Public comments will not make a difference because democracy no longer exists. Mayor Sullivan is acting to remove the tree so the airport can be expanded. The community is wise to that action and is aware of what the Mayor is doing.

Erik Johansen, resident of Tumwater, spoke to several other Garry oaks on City property, one located off 79th Avenue and the famous Garry oak. The 79th Avenue oak at the Old Trails End property is apparently loved as the City plans to protect the tree, but not so much with the Davis-Meeker Garry oak. It seems odd that the City was dealt with an unfortunate situation when the Department of Transportation routed the highway placing it too close to the tree. The City should move the road to mitigate the risk. It is doable as the project is included within the City's plan. The tree should also be fenced off if feasible because the situation is fixable. He would like the City to put as much

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effort into protecting the tree as the City puts into protecting a brewhouse. The brewhouse is great as it is 100 years old; however, when the tree was growing, his ancestors lived in Europe.

Cindy Cooper, 1085 Ebbets Drive SW, Tumwater, said she is a 13-year resident of the City and lives on Tumwater Hill. She is also a 22-year veteran of the Washington State Department of Agriculture. She supports retaining the Garry Meeker oak and urged the Mayor to reconsider her decision to remove the tree. Many experts have testified earlier. The Garry oak is only one of 14 native oaks remaining on City property. A survey completed by the City on trees pointed out the importance of increasing the diversity of tree species on City property. Removal of the tree would not support that intent. The City has a number of heritage projects, such as the brewhouse and restoration projects for different properties. She questioned why the tree could not be another opportunity for a great community project to protect the history and the love of the City's heritage. She is aware some seedlings and cuttings have been obtained from the tree in the advent the tree is removed but cautioned that the seedlings are not being properly handled and should be handled by experts. Burnt Ridge Nursery, an oak propagator, could handle the seedlings for the City. The owner is an expert oak tree grower, one of the best in the country. She urged the City to safeguard the seedlings. Additionally, at the Council's May 14, 2024 meeting, a promise was extended about issuing a survey to the public for feedback on the disposition of wood from the tree following its removal. She asked whether the City plans to sponsor the survey and the timing for the survey.

Sandia Slaby, 1827 Legion Way SE, Olympia, said she is incredibly baffled by the event over the last several weeks and the short amount of time some aspects of it has been occurring and how long the issue has been moving forward without notice either to the public or to Native American tribes, etc. She wants to be respectful of the Council as a body and as individuals. However, it is challenging because of her nature, as she is very angry and could be very inappropriate. She is wondering who is it the Council is listening to, as it is clear the Council is not listening to city laws, state laws, or federal laws. There is a huge lesson underway in this country as no one is above the law in this country. As a body, she hopes the Council considers all statements. When authority figures pursue these types of actions without total transparency, especially because of the tutorial provided earlier in the meeting about the Open Public Meetings Act, she is left wondering what has happened in secrecy over the years. Whenever she attends City Council meetings about important issues where decisions have been made, it appears everyone is groveling. She wants to be invited and to engage with a Council that is genuinely listening. She would like to be hopeful that the Council will listen, reconsider, and give more

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time to save the tree to remain on earth longer and hopes the Council will move the dam road instead of the tree.

Kattarina Simons, 8116 Countrywood Drive SE, Olympia, said she grew up in Tumwater and lived near Trails End. She calls the place home although she has lived in other places in the military. During her military service she lived in Germany for four years and spent one year in Iraq. Those are places with much history and architecture visited by people to see buildings built 500 to 2,000 years ago. Those visitors do not visit those places to experience natural beauty. That is what people who come to America do because in America old buildings are torn down. Living in Europe taught her what a young country America is. Some members of the Council might see this as just a single tree, as it is emblematic of America's tendency to tear down anything that is old and not value history even though the tree predates European colonization of the continent and shares its history with local tribes living during times of wilderness, war, drought, and industry. The tree is not dead because it has leaves and animals subject to the Migratory Bird Treaty Act living in the tree. The tree has survived winter storms and has lived through so much. The tree is on the City's historic register for a reason. Losing history by tearing down buildings also happens when trees are removed. Other options are available and the public would likely be happier with an independent analysis and mitigation options. The course of the process has not fostered trust in the Council, the process, or in some cases, the Council's motivations. It is destroying the trust of the community at the same time the Council is destroying the community's history. The Garry oak is the only oak native to the area and species diversity is needed today. Children need to have a livable earth. Just because a tree cannot scream does not mean it is any less of a death if cut down. If there are ways to preserve the tree, she urged the Council to preserve the tree.

Ariana Simons, 8116 Country Wood Drive SE, Olympia, said that as an 11-year old, she knows that the tree is very important to many people. She believes the tree can be saved and she wants it saved. Many times, she and her friends have discussed how they want the tree to remain and that it is salvable. They believe the tree is alive and do not believe it is necessary to shout to be heard. The Mayor has indicated she would not want to look into the eyes of someone who lost someone in a car accident because of the tree. She also believes that the Mayor could not look her in the eyes and say, "I am going to disregard what you are saying and I am going to chop down an historical tree, a piece of living history." She needs the Mayor to listen and respect those in attendance and their wishes for the tree. If the tree is cut down, she will no longer trust the Council. If she is unable to trust the Council to make good decision, she is uncertain as to the type of decisions the Council would make and whether those decisions would hurt people, which

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makes her feel incredibly unsafe. She urged the Council to reconsider decisions about the tree and listen to the community.

Teri Graves, P.O. 237 Carbonado, Washington, said she is a member of the Cowlitz Indian Tribe. The trail belongs to her grandfather. She noted that the Council has not afforded a land acknowledgement to honor the people of the land. All other city and county governments have offered land acknowledgements. It is a slap in a face. Trees often fall and fire departments are called to remove trees from roads. If the Council is so concerned about the tree, the City should move the road. As her grandfather Roy would say, you are guests on their land. The Cowlitz Trail has been the tribe's highway of commerce since time immemorial. Her great grandfather, a chief of chiefs, controlled the trade routes from what is now Canada all the way to the big waters of the Columbia River until his death in 1827. Her grandfather and the seven generations before him and after him have traveled the Cowlitz Trail and have passed the grandmother tree. Her people stopped for shade and rest as it was used as a marker tree within a large area of grasslands. This grandmother oak has guided many of her tribal family. They touched her, offered her prayers, sang to her, and gifted to her. They thanked her for her guidance and believed that everything has a spirit. She is a beautiful living being. Many trees were planted to mark burial sites. Everyone drinks the same water her ancestors drank and eat the food off the land, fish in our rivers, and each person carries some of the land, water, and animal DNA of this land. The Council has a responsibility to the land, water, and the grandmother oak. She asked whether the Council is familiar with the Centennial Accord. If not, the Council should learn about the Accord. She contacted Bob Ferguson, State Attorney General, to educate him about the Accord. The Council did not consult with any tribes in the area. The Council should abide by the Accord, move the road, protect her ancestors, and the winged relations that are living within it.

Greg LaDue Grove, 736 Shorey Road, Chehalis, Washington, said he is a member of the Cowlitz Indian Tribe and is from the Taidnapam family. It appears the Council does not understand his tribe's history, which he will help describe. The trail has been in existence for a long time and served as the trail of commerce and trade. The trail is still those things. Eight years ago, three tribal men walked the trail taking five days and touching all places they had been told about by their elders. They stopped by the tree and remembered that it is a marker for the tribes and points a direction. Archeology and anthropology issues need to be addressed. The Council should consult with the tribes that were affected by the tree. In terms of the trade routes, five of the local tribes always traded and married. The tribes include the Cowlitz, Chehalis, Squaxin, Nisqually, and the Puyallup. All five tribes have an interest in the trail. An old camp is located near the creek. The area is

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the tribe's history and how tribes' identify themselves upon the land differently than modern society. Just because everyone lives in a modern society, does not mean there is no memory of living on the land. He would not want to be in a middle of a lawsuit with the City of Tumwater because the City knows that federally recognized tribes have standing. He has standing in court to address the Council. The City needs to engage in consultation, as the tree is important.

Dick Swearingen, 1396 89th Avenue SE, Tumwater, reported he is a retired Washington National Guard Lieutenant Colonel who received the highest honor the National Guard bestows. However, that does not make him any better than any member of the Council. Regarding trust in the Tumwater City Council, on the one occasion he needed assistance from the Tumwater Police Department during a domestic situation, he was required to call at least three times before they responded and when they responded one of the officers threatened him with being shot for attempting to retrieve a packet of cigarettes from his pocket. On another occasion involving the Tumwater City Council, the Council levied a \$10,000 fine to his neighbor for having a rooster. The only reason he mentions those situations is to demonstrate that at some time the Council did not use very much common sense. Today he is unsure whether the Council can grasp the concept of sacred and the value of what others have spoken about. Sacred is a non-tangible concept that cannot be touched physically but it is a phenomenon that everyone readily receives including the Council. That tree is sacred and should be treated as such. The Council would gain face by saving the tree and lose face by cutting it down. Face is the most important thing the Council can hold onto.

Sharon Cuntz, Tilley Road, Thurston County, said that as public opinion grows against the Mayor's continued refusal to change her arbitrary decision to kill the oak tree as soon as possible, she cannot help but wonder how the Mayor could be set on this course rather than affording other arborists an opportunity to prove that the tree could be saved while ensuring public safety. The City should pause, prune, and brace the tree if it can be made safe temporarily to avoid killing the birds and breaking the law. It is especially odd that there is no compromise offered by the Mayor when she must realize that a recall campaign is obviously coming soon if she goes forward with the plan. There truly is no logical reason for holding onto such an unpopular position and refusing to consider an offered and easy solution. The panic over public safety is questionable and it does not appear to be genuine because if it were the community would have heard about the dangers soon after the branch fell, not many months later. It leaves many in the community wondering, what is behind the attempt to break a long-held pledge often affirmed in many official Tumwater documents that the tree would be protected. The pledge is stated in the

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current Tumwater Highway Corridor Study on widening the road. That is one behind-the-scenes story and perhaps a possible motive that the community is not hearing about. The other involves the Port of Olympia where City Administrator Parks previously worked and the Port's plan to enlarge the airport. The tree would need to be removed for that project. If it does, she would not be too surprised if the other historic impediment to airport enlargement was the historic Washington State Patrol Hanger. Officials could suddenly determine the building to be a safety hazard or other impediment. Such actions are plausible according to published documents. Common sense should prevail by not moving forward to remove the tree and the birds at this time. The presence of the birds would make removal of the tree illegal. Tumwater has nothing to lose by pushing the pause button unless officials were a party to some secret plan or agreement. If not, she urged the Council to let the experts try to make the historic, iconic tree safe to live another 100 years.

Astrid Sturm said she lives in the community of Scott Lake and drives by the tree each day. She is originally from New Mexico and she understands what trees mean to people. Trees in the desert are needed by Native Americans and their ancestors. The tree means much to the community. The road can be moved. The community is in support of protecting the tree and would be willing to drive around the tree and deal with traffic to save the tree. Trees will continue to fall as she lives in a forest with many trees falling frequently. The City should let the tree fall on its own accord. She does not believe the assessment was thorough and does not understand why removal of the tree must be so soon. She asked why further evaluation could not be completed on the tree.

Su Sikora, resident of Olympia, commented on the beautiful community turnout. She thanked the Council for making space and for receiving comments. She works in Tumwater and passes the tree six times a week. The issue is difficult, which she respects. She has compassion for each Councilmember because it is obvious that members are trying and doing their best to navigate a unique and unprecedented situation for Tumwater. As the Council indicated at its last meeting, the situation is a first and it is difficult. At the onset of the issue, there appeared to be no guidelines or rules as indicated by references by the Council. When it comes to making decisions about the special tree, special guidelines are needed, as it is not just any tree because it is a scared tree and historic landmark. Although the Council lacked guidelines to address the issue, it is not too late to create guidelines to address this and future situations. Other cities have created guidelines for similar trees. The City should contact other cities in the state. She continues to have faith in the Council's leadership to guide the community through the issue and find a way to save the tree

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while ensuring public safety. The tree is special and needs special experts on heritage tree preservation. The only company with the expertise is Tree Solutions. She asked the Council to give Tree Solutions a chance to help create a path forward.

Jeff Foster, 3104 59th Court SE, Olympia, said prior to his retirement, he was an ecologist working in the forestry program at Joint Base Lewis McChord. Over the course of 24 years he had the opportunity to observe and measure thousands of oaks. The base has more *Quercus garryana* than anywhere else in Washington. He recently attended the rally for the Davis-Meeker oak and the more time he spent observing and walking around the tree, the more impressed he became. The tree is a tall, large diameter oak tree likely older than any other oak tree on base. As an ecologist he deciphers what likely occurs during the lifetime of a tree. Several regrets during the rally was knowing that the tree might be cut down soon and that it was located between an airport hanger and a paved road as it originally grew in a native prairie next to an historic trail. He has spent time preserving native prairies both on and off the base. This tree is unique. He cautioned against making a hasty decision and urged the Council to take its time and do it right. He also spoke to an arborist during the rally who indicated that he and other arborists believed there had been an overestimation on the amount of decay in the tree. The arborist was able to inspect the branch that fell last October and took a cross section of the area where it had been attached to the main trunk. The arborist shared the cross section during the rally. No rot was present in the cross section. Based on his count of growth rings, the branch alone was approximately 150 years old.

Debra Jaqva, resident of Thurston County, echoed all previous statements to save the oak tree. She is hopeful each Councilmember listens to what individuals are expressing about the tree because it is important. Someone said the tree is sacred, which it is. The Council should consider that and save the tree.

Sarah Stewart, 4941 Old Military Road SE, Tenino, noted that the public attending the meeting want to be heard and want to communicate with the Council about how they feel. Over the last two weeks, the amount of knowledge she has gained from others who are involved in the effort speaks to a remarkable group of people. The Council should spend time listening as it would sow mutual respect for everybody. At the recent rally, a gentleman held a sign depicting "Save the Tree Honk." Approximately eight of every ten passing cars waved and honked. Each advocate for the tree represents the community as a whole. She quoted a passage she discovered at aol.com stating, *"Various Native American tribes understood the hawk as a messenger bringing insight, discernment, and focus into our lives. Across ancestral traditions, the hawk represented clear vision, intuition, and*

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the ability to swiftly rise above any changes or obstacles in our way.” She recently took a road trip across the country to Florida and the most impressive area was the return trip to Washington with its big beautiful trees. There is nothing like them and they should be saved, especially the ones that are so significant.

Arthur Wuerth, 3409 Sapp Road, Tumwater, said he has been a Tumwater area resident since 1951 and retired as finance director for the City of Ocean Shores. He opposes the decision to cut down Tumwater’s historic oak tree. The Mayor quoted a study reflecting that there were 407 deaths from wind-related tree failures in the United States. The study was cited as a justification to remove the tree. The study was completed by Kent State University. Of the 407 deaths spanning 13 years, the annual rate was 31 tree-related deaths in the United States. Two-thirds of the deaths were associated with thunderstorms, hurricanes, and tornados. Half of the deaths did not involve vehicles. Only six deaths involved vehicles. The category covered only the Pacific Northwest and the Mid-Atlantic. Splitting the data by area equates to approximately three deaths per year. The report cites an average tree-related fatality in the state of Washington per year to include all categories of causes and locations as zero to one tree. According to a recent University of Utah study, the number of people killed in the US annually in deer vehicle accidents is 440. A person is 70 times more likely to die by a deer than by an old tree. There are solutions to mitigate potential public safety concerns that have been documented for protecting the tree and public safety. The Council should consider those options.

Dave Nicandri, 505 4th Anemia SW. Tumwater, said he served on the City Council in the 1970s and is a member of the Historic Preservation Commission that considered the issue. He also served as the Director of the Washington State Historical Society. He was introduced to Tumwater history in 1972 by Jim Brown, who introduced him to Albert Rutledge. At that time, they attempted to save the cemetery off Littlerock Road. Mr. Rutledge was 90 years old at that time and often referred to his uncle Jesse, who he learned later, was Jesse Ferguson, one of the original American settler pioneers who came to the area in 1845. His own ancestry and connection might not go back as deep as some, but he spoke to a person who spoke to another person who spoke to another person who was one of the first American colonists on Puget Sound. Removing the tree would be an absolute travesty. He has witnessed numerous laws and other procedurals and knows the consequence of “Fruit of the Poisonous Tree.” The Historic Preservation Commission reviewed the original report, which was flawed. As a group of historians with no botanical expertise, the Commission determined that the arborist’s judgment to remove the tree was wrong and mistaken. The Commission pointed that out as such.

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The arborist refused to engage in peer dialogue with the Commission and would not answer any questions from other botanists. It is interesting that he has seen reference to two or three dozen botanists over the course of the last three months with only one botanist on record in favor of cutting the tree down. All other botanists are on record indicating that something is missing in terms of the assessment. As an author of four published books, all the books were peer reviewed, which is an uncomfortable process for any discipline because it requires defending your reputation and the thesis of the book. He does not understand how in good conscious, the Council could proceed on a decision when every other arborist who offered an opinion offered a contrary point of view while the one arborist refused to engage in peer review dialogue.

Christina Manetti, 6925 Hillgrove Lane SW, Lakewood, representing the Garry Oak Coalition, an environmental non-profit in Lakewood, urged the Council to preserve the Davis-Meeker Garry oak as both a historical landmark and as a critical area. Based on observations, the City of Tumwater appears to be ignorant of some fundamental facts. As a result, the City is acting in violation of the law and without regard to the intention of WDFW guidelines that are supposed to inform the City's policymaking. It was shocking to hear the City's representative at the recent court proceedings indicate that the Migratory Bird Treaty Act only relates to hunting of birds, as well as witnessing the judge accepting the falsehood unquestionably. Although the Trump administration changed the law to weaken the protections, the Biden Administration restored the protections. If the City of Tumwater cuts down the tree, the City will be breaking the law while nesting kestrels are in the tree. The WDFW habitat biologist confirmed that it would be illegal to remove the tree. The City of Tumwater also appears to be ignorant of WDFW management's recommendation for Garry oaks or Oregon white oaks published in 1998 and January 2024. The recommendations are supposed to inform the City's policies for Garry oaks and there is no information in the municipal code that the City based its policies and regulations on the recommendations. The City failed to identify Garry oaks as critical areas that are valuable to wildlife and has allowed destruction of those critical areas without any consideration of mitigation. For example in the 2024 recommendations, one Garry oak of 30" diameter at breast height would require the replacement of 250 young Garry oaks as mitigation. According to the 1998 recommendations, Garry oaks located on the westside of the Cascades should not be cut down except for stand enhancement. Mitigation for large oaks is impossible. There would be a temporal gap in the habitat of hundreds of years while small trees grow despite the uncertainty of new climatic conditions. Consequently, the City of Tumwater would be allowing a net loss of critical areas, which is in violation of the Growth Management Act.

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The City is also ignorant of basic ecological principles that must be considered when making decisions about the Meeker oak and other oaks. The City considers the oak as dangerous because it might kill a human being because it loses a branch. The tree is more valuable because it contains rot, which is reflected in the 2024 recommendations. The City must guide its policies for what is best for the oak tree and ecosystem and not only expedient for humans.

James Dunlop, resident of Lakewood, observed that many people regard their respective city council as representing their interests with most people investing faith in their city council to protect their interests. After reviewing the operation of city councils in the cities of Lakewood and Tacoma, he believes there is a problem as members of city councils must be aware of the kind of pressure of being a councilmember and the incredible pressure to conform. Irving Janis, a social psychologist who identified the phenomenon of “groupthink,” explained the disordered decision-making process that occurs in groups working together. He studied the Bay of Pigs incident during the Kennedy Administration and how the Kennedy Cabinet made such a disastrous decision to invade Cuba. Those individuals were highly intelligent articulate people who were pressurized to make a disastrous decision. The Council, as it considers its action, is also likely to make a disastrous mistake because the pressure is enormous. Additionally, there is the second pressure of avoiding backing down from a faulty decision. Councilmembers must be aware of the pressure as they were elected to look after the interests of those they represent. The Council should not look after the interests of City bureaucrats who have different ideas about development. He encouraged the Council to step back from the pressures and consider the entire situation because if the tree is removed, it would be illegal, The Council would be blamed forever. The Council needs to think very carefully about its action, as it is a good time to practice bravery.

Janine L., resident of Tumwater, advised that she cannot add much to the conversation that has not already been beautifully stated. She urged the Council to focus on transparency, as transparency in the process on many multiple levels has been very poor, especially as to the reason the tree needs to be removed. The reason is not safety as it has been a year since the branch fell and yet the process today is the first time to address the issue. It speaks to no emergency involving the danger the tree represents to the public. There appears to be a hidden agenda with some members of the Council not understanding the reason for the urgency of removing the tree. A pair of kestrels is raising baby kestrels in the cavity of the tree. Many individuals contacted the U.S. Department of Fish and Wildlife Service, Washington State Department of Fish and Wildlife, and the Portland office of the Migratory Bird Treaty Act responsible for enforcing permitting and law

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enforcement of the Act. The message is clear, if anyone touches or disturbs the tree with nesting birds, such action is not allowed. Tumwater staff have communicated to the public that the Mayor claimed to consult with the tribes concerning the tree. However, based on the public's consultation with the tribes (Nisqually, Cowlitz, and the Squaxin), the assertion is not true. The consultation did not occur. She has been involved in the process for four months beginning in February 2024. The process surrounding the beloved, historic, protected, and very alive and healthy Meeker oak is totally lacking in transparency and truth telling. She asked the Council and the Mayor to speak the truth, protect, and preserve the tree for future generations.

Kepler Felton, resident of West Seattle, reported she recently learned about the issue surrounding the tree. As she learns more about the circumstances she becomes more disappointed with what the City is doing in response. Most of the public in attendance support saving the tree. The Council should not remove the tree because the tree is part of the community, not just the landscape. Despite the community support, should the Council elect to remove the tree, the Council deserves all the hatred and wrath it will receive from the community.

Diane Kiley said experts have spoken to the condition of the tree and the Council has received emotional testimony and requests to preserve the tree. The dismissiveness and apathy that she senses from the governing body is hurtful. She referred to a picture of Tumwater pioneers who would not have arrived if it had not been for the Cowlitz people and Cowlitz River. They were only able to reach the area because of the Cowlitz people. That history must be preserved. Her ancestors toiled carrying their belongings by canoe and building wagons to transport belongings over land to arrive at this place. She asked about the kind of gratitude the Council will afford to her ancestors because no one would be here today if their ancestors had not traveled through Cowlitz country with Cowlitz labor, Cowlitz help, and Cowlitz transportation. The Council must understand that it is more than the tree, it is a decision to save a tree and a decision to preserve history and recognize the role of Native Americans. The Council should preserve the small piece of the Cowlitz land, memorialize it, and honor it. The airport and the road can be built around the tree because there is plenty of space rather than eliminating the history of the Cowlitz again. The apathy she senses is likely the same her ancestors felt during the signing of the Treaty of Medicine Creek. The Cowlitz Tribe refused to sign the treaty because the tribe wanted its lands intact, which is similar to what is occurring today. The Council should vote to postpone action until the tribes have an opportunity to weigh in. Both the Nisqually and Cowlitz Tribes completed elections with new leadership. The Council should afford time for the tribes to provide feedback. As her brother pointed out earlier, the Cowlitz has standing that must be honored.

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Barnaby Caldwell, resident of Olympia, said he resonates with previous comments as to how each speaker is representing others who are either too tired or too busy to attend the meeting. He is representing younger adult voters, who pay attention to issues. Young voters care about trees and local elections. Some younger voters care more about local elections than presidential elections.

Tanya Nozawa, P.O. Box 14013, Tumwater, said she has served on the Tumwater Tree Board for seven years because of her desire to protect existing trees. The branch that fell from the Meeker oak in February 2023 did not fall in the roadway. She met with the gentleman who witnessed the incident. The branch fell next to the tree and not in the road. The gentleman, whose daughter was traveling to work when the branch fell in front of her car, believes the Meeker oak should not be cut down. She was able to observe the falcons. One bird was white in color and chased away a large hawk several times. She heard the babies located within the cavity of the tree. She was able to contact a representative from the U.S. Fish and Wildlife Service, who plans to conduct an assessment on the tree in the next several days. Moving the road is only one option as installing a wildlife bridge is another option. The City of Bellingham recently adopted an ordinance to protect its historical and heritage trees. The ordinance is strict and she plans to present the ordinance to the Tree Board for consideration by the City to implement. The ordinance would prevent these circumstances from occurring in the future. Additionally, the issue has created national attention as it is featured in an article in *People Magazine*.

Mayor Sullivan thanked everyone for providing comments and encouraged those experiencing connection difficulties to submit their written comments to the City.

- CONSENT CALENDAR:**
- a. Approval of Minutes: City Council Work Session, May 14, 2024
 - b. Approval of Minutes: City Council, May 21, 2024
 - c. Payment of Vouchers
 - d. R2024-008 Surplus Canine James
 - e. Interlocal Agreement with City of Olympia for the Mottman Road Pedestrian and Street Improvements Project
 - f. Israel Road and Linderson Way Pedestrian and Bicycle Improvements project, Authority to Solicit Bids and Recommend Award
 - g. Construction Contract with Active Construction, Inc. for the Interstate 5/Trospen Road/Capitol Boulevard Reconfiguration Project, Request for Additional Construction Funds
 - h. Reappointment of Joe Munro and Amy Hargrove to the Board of Parks and Recreation Commissioners
 - i. Thunder in the Valley 4th of July Fireworks Display Permit

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j. Cancellation of the June 18th Regular Council Meeting

MOTION:

Councilmember Dahlhoff moved, seconded by Councilmember Von Holtz, to approve the consent calendar as published. A voice vote approved the motion unanimously.

Mayor Sullivan reviewed the items approved on the consent calendar.

**COUNCIL
CONSIDERATIONS:**

**RESOLUTION NO.
R2024-011, STRATEGIC
PRIORITIES & GOALS
2025-2026:**

City Administrator Parks reported the proposal culminates the review by the Council in January through March. The proposed resolution adopts the Strategic Goals and Priorities for 2025-2026. The proposed resolution reflects additional comments received from the Council.

In response to a request from Councilmember Dahlhoff to receive a tracked version of the changes to the document, City Administrator Parks confirmed she would provide a tracked version of the document. Councilmember Dahlhoff added that until she has an opportunity to review the changes, she would not support a motion to adopt the resolution.

MOTION:

Councilmember Althaus moved, seconded by Councilmember Agabi, to adopt Resolution R2024-011, updating the City's Strategic Priorities and Goals 2025-2026. A voice vote approved the motion. Councilmember Dahlhoff opposed.

**LETTER OF
UNDERSTANDING
WITH SQUAXIN
ISLAND TRIBE:**

Police Chief Weiks presented an updated Letter of Understanding with the Squaxin Island Tribe for law enforcement services. In 2023, the City signed an initial letter of understanding with the Squaxin Island Tribe providing Tumwater police officers with the authority to enforce traffic and criminal laws on specific property owned by the tribe located within the limits of the City. The letter also implemented a provision included in the 2023 Memorandum of Understanding (MOU) signed by the City and the tribe. Since then, the tribe has purchased additional land currently under development. The land was converted to trust status and the proposal clarifies the City's legal authority to enforce laws on trust lands. Additionally, the proposal incorporates a provision addressing any future trust land acquired by the Squaxin Island Tribe.

Staff requests approval and authorization for the Police Chief to sign the updated Letter of Understanding with the Squaxin Island Tribe to provide law enforcement services to any Squaxin Island Tribal trust land located within the City of Tumwater.

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MINUTES OF HYBRID MEETING
JUNE 4, 2024 Page 25**

Councilmember Althausen inquired about the cost for law enforcement services and whether the fee is adjusted when the tribe acquires additional land. City Attorney Kirkpatrick advised that the intent of the updated agreement is to avoid amending the agreement each time the tribe acquires additional land. The fee is scheduled for renegotiation in two years.

MOTION:

Councilmember Althausen moved, seconded by Councilmember Von Holtz, to approve and authorize the Chief of Police to sign the updated Letter of Understanding with Squaxin Island Tribe to provide law enforcement services to any Squaxin Island Tribal land located within the City of Tumwater. A voice vote approved the motion unanimously.

**DISCUSSION ON
THREE PROPOSALS
REGARDING THE
DAVIS-MEEKER OAK
TREE:**

Councilmember Dahlhoff reported she forwarded an email on June 2, 2024 with three sample proposals for a discussion and review by the Council. As the issue surrounding the oak tree has evolved, the municipal code was addressed for administrative actions by the Executive branch of the City. However, municipal codes fall under the purview of the Council as the Legislative branch of the City. As the restraining order expires on June 5, 2024 at 5 p.m., she is seeking guidance for the Council to engage in a discussion to update the municipal code for an exemption, as well as discussing how data that are questioned should be subject to an independent third party assessment to validate the data. She is raising the question because of community comments stressing the importance of actions based on facts rather than feelings. The proposed conversation could include how the Council could amend the municipal code to address circumstances where data are questioned and whether the matter could be automatically referred to a third party for assessment and validation. As the issue has been presented as an administrative function, she is seeking guidance on the role of the Council as a legislative body. Several options for discussion include the City of Bellingham's recent adoption of a resolution and consideration of an emergency ordinance, a review of municipal codes as cited in the email for possibly adding trees as an object, or consideration of an exemption of the data to remove an object if data are questioned. She cited the possibility of updating TMC Chapter 16.08 E to reflect that for any documentation that is questioned by a board, commission, or a council, a third party independent assessment would be performed to validate and reproduce documentation before any decision, action, or non-action is rendered.

City Attorney Kirkpatrick advised that any changes to the municipal code would require a draft ordinance to require an additional assessment of some type. Additionally, many tree protection provisions are covered in development regulations, which require an additional

**TUMWATER CITY COUNCIL MEETING
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administrative process involving the Planning Commission, a public hearing, and notice to the state.

Councilmember Dahlhoff questioned the difference of issuing an emergency ordinance similar to the City of Bellingham's recent action. City Attorney Kirkpatrick explained that an ordinance can be adopted as an emergency. However, a draft ordinance would be necessary for presentation to the Council. An emergency ordinance requires a unanimous vote of the Council to adopt to take effect immediately.

Councilmember Dahlhoff cited her draft of a sample ordinance in the email. City Attorney Kirkpatrick advised that the draft does not meet the minimum qualifications of an ordinance.

Councilmember Cathey asked about the reason for the requirement of a unanimous Council vote. City Attorney Kirkpatrick said a unanimous vote is required by state statute because of the power of initiative and referendum requiring a unanimous vote to adopt an emergency ordinance.

Councilmember Dahlhoff offered the option of pursuing a discussion about not removing the tree until an emergency ordinance could be drafted meeting the standards. City Attorney Kirkpatrick advised that any discussion is at the discretion of the Council and the Mayor followed by any direction to staff.

Councilmember Cathey supported deferring any actions on the tree in deference to the letter received from the Nisqually Tribe requesting a delay until the tribe has an opportunity to review historical and preservation issues.

Councilmember Agabi referred to an email received earlier in the day from the attorney of the plaintiffs seeking the temporary restraining order against removing the tree. The attorney indicated that if an injury or death occurs because of the tree, the insurance of the plaintiff would be responsible for the liability. City Attorney Kirkpatrick said she reviewed the email and additional research would be necessary on the proposal.

Councilmember Jefferson said the testimony from community members spoke to apathy and a lack of concern by the Council, as well as a lack of trust in the Council and the City by the community. She proposed a compromise of trimming and bracing the tree to mitigate public safety risk. Local tribes are upset with the Council with a request from the Chairman of the Nisqually Indian Tribe to delay any action to remove the oak tree until the tribe has had an opportunity to complete consultation with the State Department of Archeology and Historic

**TUMWATER CITY COUNCIL MEETING
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Preservation and the tribe's Historic Preservation Officer. The Council should consider the request and agree to afford an independent third party analysis.

Councilmember Swarthout commented that any circumstances resulting in a difference in data should result in the Council moving forward to ensure data the Council considers supports an appropriate decision moving forward. She was moved by the testimony from the community. She acknowledged the request from the new leadership of the Nisqually Indian Tribe. The Council should delay action and seek another opinion.

Councilmember Von Holtz noted that the City's Insurance Authority indicated the City would not be covered for any liability caused by injury or death caused by the tree. However, the Insurance Authority also conveyed that if scientific data were different, another opinion could be issued. She supported moving forward with a third party review of the report findings.

Councilmember Althausen commented on the mechanisms available to the Council noting that the Council could adopt a motion deferring the removal of the tree for a specific period while staff is directed to seek an independent third party analysis. However, he questioned whether the Council's action would compel the Executive branch from not removing the tree. City Attorney Kirkpatrick affirmed that City Administration and the Mayor could move forward and remove the tree regardless of the Council's action.

Councilmember Althausen noted that alternatively, the mechanism required by the Council would entail adoption of an ordinance; however, because it involves the Development Code, an administrative process is required involving the Planning Commission and a public hearing. City Attorney Kirkpatrick advised that the Council could adopt an emergency ordinance, which would require the same process.

Councilmember Althausen questioned the threshold for declaring an emergency. City Attorney Kirkpatrick said declaration of an emergency is for public health and safety.

Councilmember Cathey commented on the intent of the Council to work together to resolve the issue.

Following further discussion, Mayor Sullivan offered that any independent third party review would not include any arborist involved in the issue.

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City Administrator Parks described the timing of a contracting process and options to provide temporary public safety measures as an interim step. However, the City would remain liable for any risks associated with the tree.

Mayor Sullivan reiterated the importance of the Council acknowledging the City would be absorbing the risk of the action. The action would require rerouting of traffic around the tree. The cost of building a new road was suggested by many community members; however, because the road and tree are located near pocket gopher habitat, the City, at this time, has not completed mitigation measures. Rerouting traffic would require a structure that would support 22,000 vehicles per day. The Council would need to identify steps to mitigate the issue quickly. In February and March 2024, three people in the state were killed by falling trees with two of the deaths occurring while they were driving. She agreed to develop a reasonable schedule to identify another arborist to complete a third party full risk assessment.

City Administrator Parks affirmed staff would move forward quickly to release a Request for Proposal.

Discussion ensued on the vagueness of the City pursuing actions contemplated earlier for the tree in lieu of an independent third party assessment. It was clarified that the City was working on mitigation of risk by rerouting traffic and moving people away from the tree. Information included on the website was intended to acknowledge the legal proceedings currently in process. Measures under consideration include adding a fence around the base of the tree, engaging in conversations with the Port of Olympia for parking lot control during Port events, exploring detour options and closing that section of Old Highway 99 while acknowledging potential impacts to local intersections and roads, and the possibility of providing a temporary lane of traffic to the east outside the drip line of the tree. Any closure of the road for 12 hours or more requires action by the Council. Those actions were contemplated in response to the possibility of an extended court proceeding preventing the City from removing the tree. The Mayor has expressed a willingness to delay action to accommodate a reasonable timeframe for an independent third party arborist to complete a risk assessment. During the interim, staff will continue to identify mitigation measures to ensure safety of the traveling public.

In response to a request to include the tribes, Mayor Sullivan described her outreach to the Nisqually, Squaxin, Chehalis, and Cowlitz Tribes. She received feedback except from the Cowlitz Tribe. Support was offered by other tribes. Because of the change in leadership of the Nisqually Indian Tribe and the Cowlitz Tribe, discussions are planned with new tribal leadership of both tribes.

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Mayor Sullivan confirmed moving forward with an independent third party arborist and a timeline for the process. She emphasized the importance of public safety and that the City must take actions to mitigate dangers to individuals posed by the tree.

**COMMITTEE
REPORTS:**

Committee reports were deferred.

**MAYOR/CITY
ADMINISTRATOR'S
REPORT:**

Mayor Sullivan announced upcoming events of Dog Days at Pioneer Park on Saturday, June 8, 2024, and the Juneteenth Celebration on June 15, 2024.

City Administrator Parks reviewed the schedule of meetings over the next several weeks. Joint work sessions are planned with the Planning Commission.

**COUNCILMEMBER
REPORTS:**

All reports were deferred.

ADJOURNMENT:

With there being no further business, Mayor Sullivan adjourned the meeting at 10:58 p.m.

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net

**TUMWATER CITY COUNCIL MEETING
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AUGUST 20, 2024 Page 1**

CONVENE: 7:00 p.m.

PRESENT: Mayor Debbie Sullivan and Councilmembers Peter Agabi, Michael Althausen, Joan Cathey, Leatta Dahlhoff, Angela Jefferson, and Kelly Von Holtz.

Excused: Councilmember Eileen Swarthout.

Staff: City Administrator Lisa Parks, City Attorney Karen Kirkpatrick, Finance Director Troy Niemeyer, Police Chief Jon Weeks, Fire Chief Brian Hurley, Transportation & Engineering Department Director Brandon Hicks, Water Resources & Sustainability Department Director Dan Smith, Coordinator Alyssa Jones Wood, and City Clerk Melody Valiant.

SPECIAL ITEMS:

**PROCLAMATION:
OVERDOSE
AWARENESS DAY,
AUGUST 31, 2024:** Councilmember Dahlhoff read a proclamation declaring August 31, 2024 as *Overdose Awareness Day* and urging the community to raise awareness around drug overdose by reducing stigma through initiatives related to education, prevention, treatment, and recovery support for substance use disorder.

Mayor Sullivan presented the proclamation to several individuals representing Thurston County Public Health and Social Services. They thanked the Council for issuing the proclamation for the third consecutive year in conjunction with other local city councils and Thurston County. Tumwater is the only jurisdiction that has actively participated in the Thurston County Opioid Response Task Force for the last five years and the only jurisdiction to continue to participate in special projects and work groups. Councilmember Dahlhoff was thanked and acknowledged for her efforts serving on the Task Force.

International Overdose Awareness Day is August 31, 2024 for recognizing individuals who have lost their lives to a fatal drug overdose as well as eliminating the stigma around drug use and drug overdoses while recognizing the grief and loss of those who have died because of a drug overdose. Thurston County is hosting two events. The first is on Friday, August 23, 2024 from 10 a.m. to 1 p.m. at Harbor House in downtown Olympia. The event will feature resources available to pregnant and parenting populations, distribution of free Naloxone to prevent an overdose, and overdose response training. The second event on Friday, August 30, 2024 will feature a resource fair from 11 a.m. to 4 p.m. and a group coordinated memorial walk from 1 p.m. to 2 p.m. at Heritage Park in Olympia.

PUBLIC COMMENT: Pamela Hansen, P.O. Box 14521, Tumwater, offered comments on

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three items. She congratulated the City for issuing the proclamation and for its ongoing support. Her experience surrounding drugs was as security officer at various locations responsible for deterring drug use. She believes she has affected change and provided support when there was a need for assistance. The City of Olympia recently approved partially decriminalizing the use of mushrooms. The use of mushrooms should be deterred rather than encouraged or tolerated. Resources should be provided to help avoid usage. During the draining of Capitol Lake, it was possible to walk in the mudflat of the river near the old brewhouse and take pictures of a drain to the river. Another photographer who had reached the middle of the river described the old brewhouse as a “needle house.” From her position she was able to view many broken windows and graffiti along and live security cameras. Her concern is that the area serves as a haven for illegal activities because of its location and is creating more problems for the surrounding area. More officers should be patrolling the area to provide updates on those activities to the community. Additionally, Resolution No. R2024-013 for surplus property should include the name of the Asset Manager.

- CONSENT CALENDAR:**
- a. Approval of Minutes: Joint City Council and Planning Commission Work Session & Council Work session, July 9, 2024
 - b. Approval of Minutes: City Council, July 16, 2024
 - c. Payment of Vouchers
 - d. Resolution No. R2024-012 Percival Creek Fish Passage Barrier Removal #22-1161
 - e. Resolution No. R2024-013, Surplus Property
 - f. Small Works Contract with West Coast Fence Pros, LLC for the Palermo Security Fence Replacement Project
 - g. Small Works Contract with CONSTRUCT, Inc. for Crosby House Foundation Repair
 - h. Three Lakes Crossing Oversizing Agreement with Copper Ridge, LLC
 - i. Advisory Board Appointments of Charlie Schneider to the Board of Parks and Recreation, Rob Paylor to the Historic Preservation Commission, and Gina Kotek, Malissa Paulsen, and Cody Perez to the Planning Commission

MOTION: **Councilmember Althaus moved, seconded by Councilmember Von Holtz, to approve the consent calendar as published. A voice vote approved the motion unanimously.**

Mayor Sullivan reviewed the items approved on the consent calendar.

Mayor Sullivan welcomed Melissa Paulsen as a new member of the Planning Commission. Ms. Paulsen shared that she is a land use planner for a local jurisdiction serving as its Community Development

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Director. She lives in Tumwater and is proud to have the opportunity to serve and support the community.

**COUNCIL
CONSIDERATIONS:**

**URBAN &
COMMUNITY FOREST
GRANT ACCEPTANCE
AGREEMENT WITH
RIVER NETWORK:**

Coordinator Jones Wood reported the grant is a pass through federal grant for administration by River Network, a non-profit organization. The grant only applies to specific areas identified in the City of Tumwater as Environmental Protection Agency (EPA) Disadvantaged Communities. The map tool provided by the federal government, identified areas eligible for Inflation Reduction Act funding using EPA Environmental Justice Screening Tool (EJ Screen) Indexes, the Climate and Economic Justice Screening Tool, and any geographic areas within the tribal lands category of EPA EJ Screen. Grant funding can only be spent in those areas only.

The grant includes five major project milestones:

- Install air temperature data loggers at heat islands
- Hire a full-time urban forester
- Plan and launch a tree canopy equity program
- Plan and launch a tree assessment assistance program
- Street tree trimming grants

Coordinator Jones Wood described the details of each project milestone. The grant covers the entire cost of milestones 1, 3, 4 and 5 and 50% of milestone 2. Included in the department's 2025/2026 budget is a match request for the remaining costs of the urban forester's salary and benefits not covered by the grant, which would enable expansion of efforts throughout the City.

Staff requests authorizing the Mayor to sign the Subaward Agreement with River Network for the City of Tumwater Urban Forestry Capacity and Equity Project. Coordinator Jones Wood invited questions from the Council.

Councilmember Dahlhoff inquired about any opportunity to identify and track trees that have been removed. Coordinator Jones Wood said the urban forester's job description could include tracking removal of trees for throughout the City.

Councilmember Dahlhoff noted the many instances of the wrong species of trees planted and inquired about any opportunity to monitor and follow-up on situations of unintended consequences of the wrong tree in the wrong place. Coordinator Jones Wood recommended deferring to the Community Development Department to follow up on those types of issues.

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City Administrator Parks advised that in general, requirements for planting trees in a common or other area is the responsibility of the homeowner association. It is likely code enforcement would apply if trees required by the plat did not survive or were removed. The expectation is that the responsible party would be subject to the City's code enforcement process. The overall benefit of an urban forester's expertise is reviewing landscape plans through the development review permit process providing the City with a check and balance process to determine whether landscape plans are appropriate.

Councilmember Cathey inquired whether heat challenged or disadvantaged areas also include low economic areas. Coordinator Jones Wood replied that disadvantaged communities defined by the EPA are areas that meet the indexes applicable to the City involving a number of environmental justice indexes such as proximity to traffic, air quality, proximity to Superfund sites, actively polluting industries, lower life expectancy areas, higher cancer rates, or lower economic well-being, which are aspects considered in the screen indexes. A number of different maps tools were used by staff to incorporate as much area of Tumwater as possible. The EPA EJ Screen Tool was accepted by the U.S. Forest Service that was used to map a large area of Tumwater. A map of urban heat islands was also included in the presentation.

Councilmember Cathey asked about any potential correlation between the project and the City's efforts to strengthen tree protection ordinances. Coordinator Jones Wood advised that the new position (urban forester) would be involved in any code revisions. Efforts for updating codes are pending the addition of a new planner in the Community Development Department. The new planner is slated to restart the code updates and would work closely with the urban forester next year.

Councilmember Dahlhoff said she appreciates advancing forward but the challenge is with current conditions, such as a development that has been clearcut. Knowing the direction moving forward and focusing on intentions in the future, clearcutting of lands continue impacting wetlands and other natural resources, which is counterintuitive. She asked how the staff plans to address the gray area of moving in a new direction while clearcutting of land continues in the City. City Administrator Parks explained that any development project meeting requirements of existing regulations is allowed to move forward. Councilmember Dahlhoff questioned the possibility as the City moves forward to update Comprehensive Plan elements to consider incentivizing green development to avoid clearcutting land. Once land is cleared, mature trees are lost. She asked how the City

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plans to document and track projects to avoid clearing of large mature trees. City Administrator Parks advised that the City has an obligation and a quasi-judicial permit review process to apply the law. Even when a developer submits an application and complies with all standards those types of situations unfortunately occur.

MOTION:

Councilmember Von Holtz moved, seconded by Councilmember Jefferson, to authorize the Mayor to sign the Subaward Agreement with River Network for the City of Tumwater Urban Forestry Capacity and Equity Project. A voice vote approved the motion unanimously.

**COMMITTEE
REPORTS:**

**PUBLIC HEALTH &
SAFETY:
*Peter Agabi***

The next meeting is scheduled on September 10, 2024.

**GENERAL
GOVERNMENT:
*Michael Althausen***

The next meeting is scheduled on September 11, 2024.

**PUBLIC WORKS:
*Eileen Swarthout***

The agenda for the meeting on Thursday, August 22, 2024 includes consideration of a Right of Entry Agreement with Jason Herrera for Belmore Street Property, an agreement for the Transfer of Interests in Brewery Assets, an amendment to the Fiber Optic Agreement with WSDOT, and additional construction funds for the 2023 Pavement Maintenance Project with Miles Construction.

**BUDGET AND
FINANCE:
*Debbie Sullivan***

The next meeting is scheduled on August 21, 2024. The agenda includes applicant presentations for debt financing, recommendation for signing an Audit Engagement letter, and a proposal for Executive Department FTE adjustments and a new position of Economic Development Coordinator.

**MAYOR/CITY
ADMINISTRATOR'S
REPORT:**

City Administrator Parks reported on the initiation of work on the Israel Road Pedestrian project to remove and replace damaged sidewalks damaged by trees and repaving the street following completion of replacing underground utilities. The construction project will enable three lanes of traffic with one lane closed as needed. The Linwood project to replace and add some sidewalks on Linwood Avenue begins on Monday, August 26, 2024. Both projects are expected to be completed by October.

The Tumwater Brewfest attracted approximately 4,000 people. The event ended early because of thunderstorms. The City has received

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positive feedback from vendors and participants. City Administrator Parks acknowledged employees involved in both the 4th of July events and the Brewfest.

The Mayor's proposed budget has typically been available by the end of the August; however, release of the proposed budget will be delayed by several weeks. Staff continues to work on a different approach this year as to involvement by directors and in the development of the preliminary budget. Budget workshops continue at Council work sessions in September and October, as well as lunchtime budget brown bags on the budget.

Mayor Sullivan reported on her attendance to two Intercity Transit Authority Board meeting since the Council's last meeting. Another class of bus operators graduated. One more bus operator class is scheduled to ensure services are at full capacity. The Board approved the purchase of property at 210 Olympia Avenue NE near the Olympia Transit Center. The vacant lot will provide additional expansion area. The Citizens Advisory Group is accepting applications for positions. Interviews are scheduled in September.

Mayor Sullivan attended the I-5/Martin Way/Marvin Road Executive Advisory Board meeting to discuss the SEPA review for the Martin Way Bridge. Another series of meetings are scheduled.

Mayor Sullivan attended the Funding and Governance Work Group meeting for the Deschutes Estuary Restoration Project.

National Night Out was a success in Tumwater. Mayor Sullivan reported she attended three neighborhood events.

Mayor Sullivan attended the Thurston County Fair welcoming ceremony and participated in a competition involving mayors, commissioners, and the Thurston County Sheriff.

**COUNCILMEMBER
REPORTS:**

Peter Agabi: There were no meetings and no report.

Joan Cathey:: There were no meetings and no report.

Kelly Von Holtz: At the Thurston County Law Enforcement Assisted Diversion (LEAD) meeting, members received an update on the activities of LEAD in Thurston County. On Thursday, August 27, 2024 from 11 a.m. to 1:30 p.m. virtual training is scheduled on the Trueblood case, a federal settlement agreement to provide systemic reforms of the

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competency evaluation and restoration services system for people with mental illness.

Angela Jefferson:

At the August 7, 2024 meeting of the TCOMM 9-1-1 Administration Board, the discussion focused on the phone replacement project with the project kickoff held on July 18, 2024. An onsite assessment at TCOMM was held on July 30, 2024. Completion of the project cutover is scheduled for second quarter 2025. The next academy for 911 telecommunicators is scheduled on October 24, 2024. TCOMM has seven vacant positions with four academies scheduled in 2025.

At the Olympia and Beyond meeting, members discussed Destination Master Plan next steps. The annual meeting is scheduled on Thursday, September 17, 2024 in Tenino.

On Saturday, August 27, 2024, Councilmember Jefferson attended the recently formed Thurston County NAACP. NAACP is the National Association for the Advancement of Colored People formed in 1909 to advocate for Black people. Today, NAACP advocates for equality and justice for all people.

Leatta Dahlhoff:

Councilmember Dahlhoff attended the first meeting of Thurston County NAACP and looks forward to the coordination, collaboration, and partnership with the City of Tumwater.

Michael Althausen:

Councilmember Althausen attended the meeting of the Funding and Governance Work Group for the Deschutes Estuary Restoration Project. Members continued review of updates to the interlocal agreement. A work session on the interlocal agreement is planned with the Council within the next several months. Artistic renderings of the restored estuary are available online at the Department of Enterprise Services.

The Regional Housing Council (RHC) last met on July 5, 2024. Members discussed a potential retreat and narrowed the scope of the retreat agenda. An option includes hosting a function to discuss the role of RHC in policy development and whether the organization should be empowered to provide recommendations for jurisdictions on regional policies for housing across jurisdictional boundaries. Members received a presentation about the Black Home Initiative, a regional effort to increase the number of first-time Black homebuyers by 1,500 by 2027. The effort also spans the I-5 corridor with a number of jurisdictions and non-profits in Pierce and King Counties joining the effort. A presentation is scheduled on the initiative. Also discussed was a manufactured home proviso presented by staff for consideration of recommendations. The RHC is responsible for recommending grants for Thurston County to consider. The process is

**TUMWATER CITY COUNCIL MEETING
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scheduled at a specific time each year and does not afford a way to address other concerns, such as a mobile home park experiencing a crisis. Members allocated some of the funding (20%) for availability mid-year. The discussion focused on the format for assisting mobile home communities, such as assistance for purchase of the community. Members reviewed a crosswalk prepared by staff of existing affordable housing incentives across jurisdictional lines to identify any gaps for potential alignment. Councilmember Althausen said he looks forward in the next year to aligning the policies of all jurisdictions to provide consistency to the development community.

ADJOURNMENT: **With there being no further business, Mayor Sullivan adjourned the meeting at 8:03 p.m.**

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net

TO: City Council
 FROM: Shelly Carter, Assistant Finance Director
 DATE: September 03, 2024
 SUBJECT: Payment of Vouchers

1) Recommended Action:

Staff is seeking City Council ratification of:

- August 16, 2024, payment of Eden vouchers 174205 to 174234 in the amount of \$2,336.58; payment of Enterprise vouchers 184219 to 184285 in the amount of \$296,934.28 and electronic payments 904575 to 904593 in the amount of \$
 - August 23, 2024, payment of Eden vouchers 174235 to 174249 in the amount of \$196,374.84 and electronic payments 903070 to 903076 in the amount of \$74,974.27 and Wire payment of \$240,752.13; payment of Enterprise vouchers 184286 to 184342 in the amount of \$117,733.14 and electronic payments 904594 to 904614 in the amount of \$793,392.35.
-

2) Background:

The City pays vendors monthly for purchases approved by all departments. The Finance Director has reviewed and released the payments as certified on the attached Exhibit(s). The full voucher listings are available upon request of the Assistant Finance Director. The most significant payments* were:

Vendor		
A&D AUTO SALE	59,110.92	2024 Mazda CX90 Police 24-2449
CDW LLC	22,523.62	Ninja and BitDefender 1 year
CONSTRUCT, INC	89,298.60	T-1 Kitchen Remodel, Pay App 1
NISQUALLY INDIAN TRIBE	51,870.00	Incarceration & Booking fees June 2024
CAROLLO ENGINEERS, INC	55,236.07	Source Development planning phase 1 – May invoice
CAROLLO ENGINEERS, INC	29,807.25	Source Development planning phase 1 – June invoice
LOTT WASTEWATER ALLIANCE	660,619.95	July 2024 LOTT fees

* Includes vouchers in excess of \$20,000, excluding routine utility payments.

3) Policy Support:

- Strategic Goals and Priorities: Fiscally responsible and develop sustainable financial strategies.
 - Vision Mission Beliefs-Excellence: Efficient stewards of public resources, building public trust through transparency.
-

4) Alternatives:

- ☐ Ratify the vouchers as proposed.
- ☐ Develop an alternative voucher review and approval process.

5) Fiscal Notes:

The vouchers are for appropriated expenditures in the respective funds and departments.

6) Attachments:

- A. Exhibit A – Payment of Vouchers – Review and Approval
- B. Exhibit B – Payment of Vouchers – Review and Approval

EXHIBIT "A"

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Tumwater, and that I am authorized to authenticate and certify to said claim.

Enterprise ERP

Voucher/Check Nos 184219 through 184285 in the amount of \$296,934.28

Electronic payment Nos 904575 through 904593 in the amount of \$52,772.33

Eden

Voucher/Check Nos 174205 through 174234 in the amount of \$2,336.58

Asst. Finance Director, on behalf of the Finance Director

Checks dated 08/16/2024

EXHIBIT "B"

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Tumwater, and that I am authorized to authenticate and certify to said claim.

Enterprise ERP

Voucher/Check Nos 184286 through 184342 in the amount of \$117,733.14

Electronic payment Nos 904594 through 904614 in the amount of \$793,392.35

Eden

Voucher/Check Nos 174235 through 174249 in the amount of \$196,374.84

Electronic payment Nos 903070 through 903076 in the amount of \$74,974.27

Wire payments in the amount of \$240,752.13

Asst. Finance Director, on behalf of the Finance Director

Checks dated 08/23/2024

TO: City Council
FROM: Joann Fletcher, Accountant
DATE: September 3, 2024
SUBJECT: Resolution No. R2024-014, Surplus Property

1) Recommended Action:

Adopt Resolution R2024-014 Declaring Property as Surplus.

2) Background:

The surplus items include 2 IT ER&R assets, 1 Police vehicle, and 1 Fire vehicle.

All items have been taken out of service or will be taken out of service and replaced according to their useful lives or have become obsolete.

3) Policy Support:

Refine and sustain a great organization.

4) Alternatives:

- ☐ Adopt the Resolution.
 - ☐ Don't adopt the Resolution
-

5) Fiscal Notes:

No significant impact. Most items are owned by the Equipment Rental Fund and are sold, disposed, or auctioned off where appropriate. Replacement cost for ER&R items is included in the internal rental rates. The replacement of all other items is budgeted by each department if necessary.

6) Attachments:

A. Resolution R2024-014 Declaring Property as Surplus with attached Exhibit A List of the items to be surplusd

RESOLUTION NO. R2024-014

A RESOLUTION of the City Council of the City of Tumwater, Washington declaring the property itemized on the attached Exhibit A surplus to the City's needs, so that it can be disposed of in accordance with Washington State Law.

WHEREAS, the Asset Manager has determined that the items on the attached Exhibit A, currently owned by the City of Tumwater by purchase, property seizure, or unclaimed property are not needed by the City for current operations; and

WHEREAS, it is the City's policy to dispose of surplus property in accordance with RCW 35A.11.010, RCW63.32.010, and other applicable Washington State laws, rules and regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUMWATER AS FOLLOWS:

Section 1. Surplus Declaration. The property itemized on the attached Exhibit A is hereby declared surplus to the needs of the City of Tumwater, and it shall be auctioned, sold, traded, donated, or otherwise disposed of in accordance with the provisions of Washington State laws, rules and regulations.

Section 2. Ratification. Any act consistent with the authority and prior to the effective date of this Resolution is hereby ratified and affirmed.

Section 3. Severability. The provisions of this Resolution are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Resolution or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the Resolution, or the validity of its application to other persons or circumstances.

Section 4. Effective Date. This Resolution shall become effective immediately upon adoption and signature as provided by law.

RESOLVED this 3rd day of September 2024.

CITY OF TUMWATER

Debbie Sullivan, Mayor

ATTESTS:

Melody Valiant, City Clerk

APPROVED AS TO FORM:

Karen Kirkpatrick, City Attorney

MEMO

Date: September 3, 2024
 To: Troy Niemeyer, Finance Director
 From: Joann Fletcher, Accountant
 Subject: Surplus of Equipment – Asset Management Fund



The following items have exceeded their useful lives, or are unclaimed items or evidence and are ready for donation, disposal or sale:

Asset #	ER&R#	Description	VIN# / Serial #	Current Location / Condition
0004780	6070129	Barracuda Backup Server 690	BAR-ES-481278	IT Storage
0004781	6070130	Barracuda Backup Server 890	BAR-BS-480369	IT Storage
0004955	6070314	2017 Ford Interceptor SUV	1FM5K8AT6HGD07386	Police Lot
0003828	69228	2000 Chevrolet Silverado	2GCEC19VXY1337633	ERR shop

TO: City Council
FROM: Dave Kangiser, Water Resources Specialist
DATE: September 3, 2024
SUBJECT: Right of Entry Agreement with Jason Herrera for Belmore Street Property

1) Recommended Action:

Approve and authorize the Mayor to sign the Right of Entry Agreement with Jason Herrera for his Belmore Street property, via consent calendar. The agreement was recommended for approval on the consent calendar at the August 22, 2024 Public Works Committee meeting.

2) Background:

An active beaver dam in Fish Pond Creek on Jason Herrera's property adjacent to Belmore Street SW has blocked the natural flow pathway, inundated the undersized culvert, and contributes to high water conditions in the area. The high-water conditions make it difficult to conduct maintenance activities on the culvert and may cause the water to flood the road. The culvert is identified in the 2011 Annexation Area Drainage Study as being undersized and recommends replacement with a larger diameter culvert; however, culvert replacement is not currently scheduled due to other priorities and limited capacity in the Stormwater Utility. To help alleviate high water conditions and the potential for localized flooding, and improve culvert access for maintenance crews, staff propose to install a flexible leveler in the beaver dam on Jason Herrera's property. In addition, staff will install a culvert exclusion device at the culvert in right of way to support mitigation of beaver activity in the vicinity. Federal and State agencies have been consulted for permitting considerations.

3) Policy Support:

Environment: We act to preserve and enhance the natural environment and the social fabric of our community.

NPDES Permit Section S5.C.9 - Operations and Maintenance

Each Permittee shall implement and document a program to regulate maintenance activities and to conduct maintenance activities by the Permittee to prevent or reduce stormwater impacts.

4) Alternatives:

Do not approve the Right of Entry Agreement. This would limit the City's ability to access the Herrera property to support mitigation of beaver activities leading to further deferred maintenance of the Belmore Street SW culvert.

5) Fiscal Notes:

The flexible leveler materials will cost less than \$1,000. Installation usually takes about six hours for two staff members. WRS staff will maintain the flexible leveler and exclusion device for the duration of the Right of Entry Agreement as needed. Annual maintenance typically takes less than an hour for two staff members.

6) Attachments:

A. Right of Entry Agreement with Jason Herrera for Belmore Street Property

RIGHT-OF-ENTRY AGREEMENT JASON HERRERA

THIS AGREEMENT, is dated this ____ day of _____, 2024, by and between JASON HERRERA (herein referred to as “OWNER”), and the CITY OF TUMWATER (herein referred to as “CITY”), a Washington municipal corporation.

RECITALS:

- A. **WHEREAS**, OWNER owns property, Thurston County tax parcel number 79900003403 more particularly described in Exhibit A attached hereto and by this reference incorporated herein (“Property”), Section 05 Township 17 Range 2W Quarter NW NE, SW NE Plat THURSTON COUNTY FARMS BLA-0203 PTN TR C Document 2/604 NKA LT 1 SURVEY 4443965 TESTAMENTARY DIVISION, across which the CITY requests access to install an instream flow control device to limit upstream impacts of an established beaver dam;
- B. **WHEREAS**, the CITY is responsible for purchasing equipment and supplies needed to install the flow control and beaver mitigation structures. OWNER shall not be billed for any labor or material costs associated with the City’s installation or removal of the structure(s);
- C. **WHEREAS**, OWNER is responsible to maintain the natural drainage of the waterway and shall not inhibit the flow of the watercourse through the Property by artificial means;
- D. **WHEREAS**, CITY is responsible for maintenance of the flow control and beaver mitigation structures based on routine inspections conducted by CITY or OWNER. OWNER shall communicate inspection findings to CITY at which time maintenance activities shall be coordinated between CITY and OWNER;
- E. **WHEREAS**, CITY and OWNER shall obtain the proper Hydraulics Projects Approval (HPA) Permit through Washington Department of Fish and Wildlife (WDFW) and adhere to all provisions therein;
- F. **WHEREAS**, OWNER desires to allow CITY access across and over the Property through the Right of Entry area depicted in Exhibit B, hereinafter referred to as the “Project Site”.

NOW, THEREFORE, in consideration of the terms, covenants, and conditions contained herein, the parties agree as follows:

- 1. **Purpose.** CITY and its agents, designees and/or assigns shall have the right, at such times as deemed necessary by CITY, to enter upon the Project Site to inspect, design, construct, reconstruct, operate, repair, replace, remove,

grade, excavate, and maintain any structures including, but not limited to, flow control, debris stockpiles, semi-buried or ground mounted facilities, water quality protection measures, erosion and sediment control structures, and all appurtenances thereto ("Project").

2. **Access.** CITY shall have the right of access from CITY right-of-way across and over the Property to the Project Site to enable CITY to exercise its rights hereunder to conduct activities in support of controlling impacts related to beaver activity. Except in the event of an emergency, CITY shall notify OWNER at least 48 hours in advance of Project activity to ensure any locked gates or restrictions to access are open upon arrival for project activities to take place. In the event of an emergency, the CITY shall attempt to notify OWNER the day of entry to conduct emergency activities.
3. **Permit Compliance.** The CITY shall comply with all requirements of the Project's Hydraulic Project Approval (HPA) from WDFW, described in Exhibit C, which regulates modification of beaver dams and installation of flow control devices. OWNER recognizes that any independent action to modify dam or manage beaver populations requires notifications and techniques pursuant with HPA Permit (APP ID 34974) and Owner is responsible for notifications to the CITY and WDFW. CITY cannot authorize dam modification or beaver management. OWNER will notify the CITY in the event OWNER engages in a reportable action according to the HPA Permit.
4. **Maintenance.** The CITY shall monitor and maintain the flow control structure(s). The CITY will be responsible for maintenance of the structure(s) based on routine monthly inspections conducted by CITY or OWNER. The OWNER may request technical assistance from CITY at any time. If, at any time, the structure(s) fail to meet the intended goal of maintaining water levels so the upstream culverts can be accessed for maintenance purposes, the CITY will remove the structure(s) and to the extent reasonably practicable return the Property to a condition similar to its condition prior to the Project.
5. **Obstructions; Landscaping.** CITY may from time to time remove vegetation, trees, or other obstructions within the Project Site, and may improve the Project Site to the extent reasonably necessary to carry out the purposes set forth above, provided, that following the completion of the Project activities, CITY shall, to the extent reasonably practicable, restore the Project Site to a condition similar to its condition prior to such work. OWNER may undertake any ordinary improvements to the landscaping of the Project Site, provided that no obstructions shall be placed thereon, which would be unreasonably expensive or impractical for CITY to remove and restore.

- 6. OWNER's Use of Project Site.** The parties acknowledge and agree that the access herein granted is non-exclusive, and the OWNER shall be entitled at all times to travel over the Project Site, and to conduct any and all activities which they may desire within the Project Site provided they do not unreasonably interfere with the CITY's use of said Project Site.
- 7. Indemnification.** Each party, and its successors and assigns, shall release, indemnify, defend, and hold the other party, and its successors and assigns, harmless from and against any and all loss, costs, claims, suits, liabilities, causes of action, and expenses of any kind or nature (including reasonable attorneys' fees) arising out of, related to, or incurred by reason of its own negligence in the performance of rights and obligations hereunder. Performance under this agreement shall be exercised in accordance with the requirements of all applicable statutes, orders, rules, and regulations of any public authority having jurisdiction.
- 8. Successors and Assigns.** The rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns for the duration of this Agreement.
- 9. Duration.** This Agreement shall be in full force and effect upon execution by the parties and shall remain in effect for the duration of HPA Permit (APP ID 34974). The termination or extension of this Agreement may otherwise occur at any other time by signed agreement of both parties.

DATED this _____ day of _____, 2024.

CITY:

City of Tumwater
555 Israel Road SW
Tumwater, WA 98501

OWNER:

Jason Herrera
1819 Sawyer St. SE
Olympia, WA 98501

Debbie Sullivan, Mayor

Jason Herrera, Owner

**WASHINGTON NOTARY ACKNOWLEDGEMENT
(INDIVIDUAL)**

State of Washington

County of _____

I certify that I know or have satisfactory evidence that _____ [Name of Person] is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

(Seal or stamp)

Signature

Title

My appointment expires: _____

EXHIBIT A – HERRERA PROPERTY

The following legal descriptions represent the parcels through which the OWNER authorizes the CITY to access under this Right of Entry Agreement:

Parcel No. 79900003403: Section 05 Township 17 Range 2W Quarter NW NE, SW NE Plat THURSTON COUNTY FARMS BLA-0203 PTN TR C Document 2/604 NKA LT 1 SURVEY 4443965 TESTAMENTARY DIVISION.



EXHIBIT B – PROJECT SITE



PROJECT SITE DESCRIPTION: Access is granted only to the furthest upstream beaver dam structure on Parcel 79900003403.

TO: City Council

FROM: Bill Lindauer, Engineering Services Manager

DATE: September 3, 2024

SUBJECT: Israel Road and Linderson Way Pedestrian and Bicycle Improvement Project – Fiber Optic Agreement with WSDOT, Amendment No. 16

1) Recommended Action:

Approve and authorize the Mayor to sign the Fiber Optic Agreement Amendment No. 16, which allows the continued operation of shared fiber optic services. This amendment was recommended for approval via consent calendar by the Public Works Committee at their August 22, 2024 meeting.

2) Background:

On July 11, 2005, the City of Tumwater and WSDOT executed an Interlocal Agreement (Contract No. DP01076) for Fiber Optic Cabling. Preservation of this Interlocal Agreement is critical to the success of the City's day-to-day operations, as the fiber optic system provides shared services relied upon by Police, Fire & EMS, IT, and Golf.

Amendment No. 16 addresses fiber optic work on Israel Road from Linderson Way to Capitol Boulevard that is required as part of the Israel Road and Linderson Way Water Main project. The existing fiber optic line in this area was mounted above ground on PSE power poles. As part of the project, all overhead utilities were placed underground which required the fiber optic system to be placed underground as well. In general, the work included rerouting of approximately 2,800 linear feet of fiber optic line on Israel Road from Capitol Boulevard to Linderson Way, installation of a new fiber optic vault at Capitol Boulevard and Israel Road, required splicing and fiber labeling, and removal of the existing overhead fiber optic system. This work was completed by WSDOT's subcontractor INSI at a full sum of \$34,621.91 under WSDOT Contract No. DP01076, Amendment No. 16.

3) Policy Support:

Strategic Priorities and Goals 2023-2024:

C. Create and Maintain a Transportation System Safe for All Modes of Travel.

4) Alternatives:

- ☐ Do not approve Interlocal Agreement Amendment No. 16 and terminate the City's shared fiber optic services.

5) Fiscal Notes:

The funds are available in the Fiber Fund for Amendment No. 16 (\$34,621.91).

6) Attachments:

- A. WSDOT Fiber Agreement – DP01076 – July 11, 2005
- B. WSDOT Fiber Amendment No. 16

**ATTACHMENT A - WSDOT FIBER AGREEMENT
- DP01076 - July 11, 2005**

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (Agreement) is entered into in duplicate on July 11, 2005, between the City of Tumwater (City), and the Washington State Department of Transportation (WSDOT).

RECITALS

WHEREAS, the City owns underground conduit within the right-of-way of its urban core as further shown on **Attachment A**, attached hereto and by this reference made a part hereof (Conduit);

WHEREAS, WSDOT has identified a need to use the Conduit for purpose of installing, operating, and maintaining fiber optic cable to be used by WSDOT for transportation purposes and WSDOT has the fiber optic cable, personnel, and expertise to install, operate, and maintain fiber optic cable in the Conduit;

WHEREAS, the Conduit contains capacity for the WSDOT fiber optic cable and the City is willing to allow WSDOT to install, operate and maintain fiber optic cable in the Conduit in exchange for WSDOT providing fiber optic cable for City use and rendering installation and maintenance services for said fiber optic cable;

WHEREAS, it is in the best interest of the City and WSDOT to enter into this Agreement; and

e. **WHEREAS**, the City and WSDOT are authorized to enter into this Agreement pursuant to RCW 39.34. 030.

NOW THEREFORE, THE CITY AND WSDOT MUTUALLY AGREE AS FOLLOWS:

1. **Consideration.** As consideration for the use of City rights-of-way, Conduit, and innerduct, WSDOT agrees:

A. to provide the City exclusive use of portions of the WSDOT fiber optic cable amounts, (number of strands) and locations as shown in **Attachment A**, attached hereto and by this reference made a part hereof. The uses of all strands of the fiber optic cable provided by WSDOT will be determined by the City; and

B. to provide the City splice points for WSDOT-provided fiber spurs/extensions into City owned buildings and within locations shown as the fiber route included in **Attachment A**. Splice points shall consist of installing a manhole or handhole out of the roadway on the side of the street closest to the facility, together with 100 feet of slack; however, if fiber optic cable is being place aerially, WSDOT will install a splice box at the pole closest to the facility. WSDOT will provide splice points for fiber optic cable that the City may extend to the following facilities:

Emergency Operation Center (EOC) (4 strands); Tumwater City Hall (60 strands); Tumwater Old Town Center (24 strands); Tumwater Valley (12 strands); and the WSDOT HQ Building on Capital Campus (4 strands); ~~the Department of Information Services (DIS) (4 strands);~~ Fire Department at Linwood Avenue (6 strands); East Olympia connection (4 strands); and

C. WSDOT agrees to place the fiber in a 1-inch conduit and install at its expense two additional 1-inch conduits (together with pull strings) for City ownership and future use, if the existing City-owned conduit does not contain an innerduct. All conduit, innerduct, and manholes installed in City rights-of-way will become City property. Any manholes and conduit placed in City rights-of-way shall be sized for a minimum of four users; and

D. WSDOT agrees to provide the above-referenced fiber optic cable and splice points for the City's use within the City's boundaries within six months of the date of execution of this Agreement. WSDOT agrees to provide the above-referenced fiber optic cable and splice points for the City's use outside the City's boundaries within ^{48 ~~24~~ CT 7-11-05} months of the date of execution of this Agreement; and

E. perform periodic/as-needed maintenance, and make repairs to the fiber optic cable installed under this Agreement. This maintenance and repair obligation does not extend beyond the equipment and fiber optic cable installed at the splice points referenced in Section 1. B. herein .

2. **Location.** WSDOT may install and maintain fiber optic cable in the amount (number of strands) at the locations shown on **Attachment A**.

3. **Installation Requirements.**

A. Before commencing any work under this Agreement, WSDOT will first file with the City an application for a permit for construction within City rights-of-way. WSDOT must provide drawings showing the position and location of all fiber, and any equipment, if any, including depth or height, that it proposes to place within the Conduit.

B. WSDOT must obtain construction permits from the City prior to performing any installation work within the City rights-of-way. The City shall waive any and all fees associated with such construction permits, which approval of such permit by the City shall not be unreasonably withheld or delayed. WSDOT must install all fiber optic cable in accordance with federal, state, and local requirements. WSDOT must also comply with applicable City

ordinances and Development Guidelines, and the current version of the WSDOT Standard Specifications for Road, Bridge and Municipal Construction.]Before commencing any construction in the City's rights-of-way, WSDOT must comply with all applicable requirements of Chapter 19.122 RCW, the One Number Locator Service.

C. WSDOT may not locate or maintain its fiber optic cable so as to interfere with the use of the City rights-of-way by the general public, or other persons authorized to use or be present in or upon the City rights-of-way. All WSDOT equipment causing such interference must be moved by WSDOT at its expense to a location approved by the City Engineer.

4. Relocation Requirements.

A. WSDOT will relocate its fiber optic cable installed under this Agreement within the Conduit, as well as fiber optic cable in any aerial locations, at its own expense, in order to accommodate future changes in street grade, street standards, and improvements within the rights-of-way, utility construction or maintenance by the City.

B. The City shall be responsible for all relocation costs associated with the relocation of the conduit.

C. WSDOT may not permanently occupy or use the City rights-of-way. This Agreement conveys to WSDOT no title or interest in the City rights-of-way. Upon expiration or termination of this Agreement by the City Council, WSDOT must, at the sole discretion of the City, either: (1) remove its fiber optic cable from the City rights-of-way at its own expense; or (2) disconnect (unlight) its fiber and deed the same to the City at no expense to the City. The City's exercise of

discretion will be made in writing, by notice to WSDOT, provided pursuant to Section 11, herein.

5. Limitations of Use.

A. This Agreement does not grant WSDOT any right to exclude others from the City rights-of-way. The City has the exclusive right to grant permits, licenses, leases, or franchises to other persons or entities to use the City rights-of-way for similar or different purposes.

B. WSDOT is not authorized to use the Conduit beyond the use provided by this Agreement. This Agreement does not authorize WSDOT to provide telecommunications or cable service to potential customers, but WSDOT may provide dark fiber to other government agencies.

6. Maintenance and Repair.

A. WSDOT may maintain or repair its fiber optic cable, but must comply with all City rules and regulations, and obtain the required City permits prior to any work within City rights-of-way, which approval of such permits by the City shall not be unreasonably withheld or denied. For emergency after hour's repairs, permits will not be required; however, WSDOT shall inform the City as soon as possible of any emergency work performed, and shall provide all relevant information such as, but not limited to, the nature of the emergency, the locations where repairs were performed, and whether continuing work is required.

B. WSDOT will at all times employ ordinary care and install and maintain and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public or workers. All structures and all lines,

equipment and connections in, over, under, and upon City rights-of-way will at all times be kept and maintained in a safe, suitable condition, and in good order and repair. The City reserves the right to see that WSDOT equipment is constructed and maintained in a safe condition. If a violation of the National Electrical Safety Code or other regulation is discovered by the City, the City will discuss the matter with WSDOT and establish a reasonable time for WSDOT to make necessary repairs. If the repairs are not made within the established time, the City may make the repairs itself or have them made and collect all actual costs for such repair from WSDOT.

C. WSDOT must cooperate with the City and all permittees, grantees, and users of the City rights-of-way to coordinate construction in the City rights-of-way. By February 1 of each year, WSDOT must provide the City with a schedule of its proposed construction activities, if any. WSDOT agrees to meet with City officials to coordinate construction and minimize disruption to the public.

D. Before either party performs any work on or within the Conduit, it will give notice to the other party under **Section 11**. Either party doing work on or within the Conduit will do so with due care in accordance with established practices and only use trained personnel. Hours of operation for normal construction and maintenance will comply with TMC 8.08.030(G), or specified on the City permit. The City may have a representative observing WSDOT work.

E. WSDOT will maintain all the fiber optic cable placed in the City's conduit, or aurally, up to the splice points referenced herein in Section 1. B.

7. **Optional Work.** If requested by the City, WSDOT may install the fiber spurs from WSDOT's direct fiber path shown at **Attachment A** into the facilities identified in **Section 1.B**

above; Provided, that (a) the actual direct and related indirect costs of installation of the fiber spurs shall be at the City's expense; (b) the terms and conditions of such work shall be by separate written agreement.

8. **Term.** The term of this Agreement shall commence upon execution by both parties and shall terminate twenty (20) years from the commencement date. At the end of this term, the parties may extend this Agreement under terms and conditions then agreed. If this Agreement is not extended, WSDOT must remove its fiber optic cable from the Conduit within thirty (30) days of the end of the term at its own expense.

9. **Liability.**

A. To the extent allowed by law, WSDOT agrees to defend, indemnify, and hold harmless the City, and its elected and appointed officials, officers, employees, and agents, from any and all claims, costs, judgments, awards, or liability to any person arising from any act or omission of WSDOT, its agents, servants, officers, or employees relating to WSDOT's installation, maintenance, and repair of or damage to the WSDOT fiber optic cable in the Conduit and likewise the City agrees to hold harmless WSDOT for any act or omission relative to the City's installation, maintenance, and repair or damage to the WSDOT or other installed fiber optic in the City's conduit..

B. WSDOT further agrees that the above-referenced defense, indemnification and hold harmless provision applies to any claim against the City based upon the City's permitting WSDOT's use of the City's rights-of-way, or from the City's inspection, acceptance, or lack of inspection of work performed by WSDOT on the City's rights of way. The above-referenced

defense, indemnification and hold harmless provision also applies to claims against the City arising from any WSDOT act or omission relating to barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction, or work on the City's rights-of-way.

C. If WSDOT does not defend any claim tendered by the City under the above-referenced indemnification provisions, then WSDOT agrees to pay all of the City's reasonable costs of defense of the claim, including expert witness fees, attorneys' fees and costs and any subsequent judgment or award in which WSDOT is determined to be at fault.

D. WSDOT specifically assumes potential liability for actions brought by WSDOT's own employees against the City and, solely for the purpose of this indemnification and defense, WSDOT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the parties.

E. The obligations in this Section shall not include such claims, costs, damages, or expense to the extent caused by the acts of the City or its authorized agents, employees; PROVIDED, that if the claims or damages are caused by or result from the concurrent acts of (a) WSDOT, its agents, servants, officer, or employees, and (b) the City, its elected and appointed officials, officers, employees, or agents, or involves those actions covered by Ch. 4.24.115 RCW, the above-referenced indemnity provisions shall be valid and enforceable only to the extent of the acts of WSDOT or WSDOT's agents, servants, officers, or employees.

F. WSDOT releases and waives any and all claims against the City and agents for damage to or destruction of WSDOT's equipment located in the City rights of way except for

damage determined to be the result of the sole negligence or willful or malicious act of the City, its agents, servants, officers or employees. WSDOT further agrees to defend, indemnify and hold harmless the City and its agents, servants, officers or employees against any claim for damages to its equipment located in the City rights of way, including business interruption damages as the result of any interruption of service due to such damage or interruption.

G. The indemnification provisions of this Section do not apply to work done by WSDOT at the request of the City as provided in Section 7 herein; wherein such work shall be governed by a separate Agreement between the parties.

H. The provisions of this Section 9 shall survive the expiration or termination of this Agreement.

10. **Insurance.** The City acknowledges that by statute WSDOT is self-insured. WSDOT agrees to provide evidence acceptable to the City of its self-insured status demonstrating that the coverage provided meets or exceeds that described below.

A. Comprehensive general liability insurance, written on an occurrence basis, with limits not less than:

1. \$3,000,000.00 for bodily injury or death to each person;
2. \$3,000,000.00 for property damage resulting from any one accident; and
3. \$5,000,000.00 per occurrence.

B. Automobile liability for owned, non-owned and hired vehicles with a limit of \$3,000,000.00 for each person and \$3,000,000.00 for each accident;

C. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.00;

D. Comprehensive for premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than \$3,000,000.00.

11. **Notices.** Wherever in this Agreement written notices are to be given or made, they will be served, personally delivered or sent by certified or overnight mail addressed to the parties at the address listed below unless a different address has been designated in writing and delivered to the other party. Notice must be addressed as follows:

City of Tumwater
c/o Doug Baker, City Administrator
555 Israel Road SW
Tumwater, WA 98501

WSDOT
c/o Dennis L. DeFries
Office of Information Technology
809 Legion Way / P.O. Box 47430
Olympia, WA 98504-7430

12. **Termination.** If this Agreement is terminated by either party, the City Council will, at its sole discretion, elect to require either: (1) that WSDOT remove the fiber optic cable from City rights-of-way at WSDOT expense; or (2) that WSDOT disconnect (unlight) its fiber optic cable and deed the cable to the City, at no expense to the City.

A. Termination by the City:

This Agreement may be terminated by the City for the following reasons:

(1) Construction or operation within a City rights-of-way without specific City approval and the necessary permit;

(2) Construction or operation at a location without specific authorization;

(3) Misrepresentation by WSDOT in any application or written or oral statement relied on by the City in making a decision to grant, review or amend any authorization under the City Code;

(4) Abandonment by WSDOT of WSDOT-owned equipment within the City rights-of-way;

(5) Failure by WSDOT to relocate or remove WSDOT-owned equipment as required by this Agreement;

(6) Failure by WSDOT to pay fees or costs when due the City;

(7) Violation by WSDOT of any material provision of the City Code applicable to the work performed under this Agreement; and

(8) Violation by WSDOT of any material term of this Agreement.

B. If the City believes that grounds exist for termination of this Agreement, WSDOT will be given written notice of the apparent violation or noncompliance. It will be a short and concise statement of the nature and general facts of the violation or noncompliance. WSDOT will have a reasonable time not exceeding thirty (30) days to provide evidence:

(1) That corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance;

(2) That rebuts the alleged violation or noncompliance; or

(3) That it would be in the public interest to impose some penalty or sanction less than termination.

C. If WSDOT fails to provide evidence satisfactory to the City, the apparent violation or non-compliance will be considered by the City Council. The City Council will provide WSDOT with notice and a reasonable opportunity to be heard on the matter.

D. If the City Council determines that WSDOT willfully violated or failed to comply with any of the provision of this Agreement or failed to comply with any notice given WSDOT by the City, then at its discretion the City Council may terminate this Agreement. The City Council may use the following factors in analyzing the nature, circumstances, extent, and gravity of the violation and in making its determination under this Section:

- (1) Whether the misconduct was egregious;
- (2) Whether substantial harm resulted;
- (3) Whether the violation was intentional;
- (4) Whether there is a history of prior violations of the same or other requirements;
- (5) Whether there is a history of overall compliance; and
- (6) Whether the violation was voluntarily disclosed, admitted or cured.

E. Termination by WSDOT. WSDOT may terminate this Agreement without penalty upon not less than thirty (30) days prior written notice for any reason.

13. Use of Private Property. When directed by the City, WSDOT will post a notice stating the nature and location of work at least 24 hours prior to entering private property or

private streets or public easements adjacent to or on such private property to perform new construction or reconstruction. A door hanger may be used to comply with the notice and posting requirements of this Section. This Agreement does not authorize WSDOT to unlawfully enter or construct improvements upon private property.

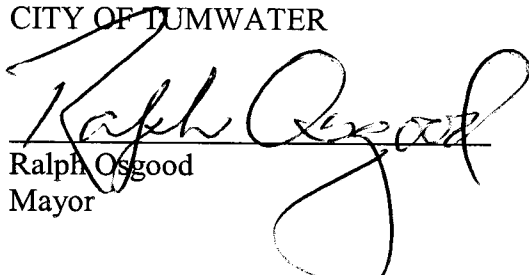
14. **Severability.** If any provision of this Agreement is held invalid by a federal or state court the remainder of this Agreement is not affected.

15. **No Joint Venture.** It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture, or other arrangement between WSDOT and the City. No term of provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

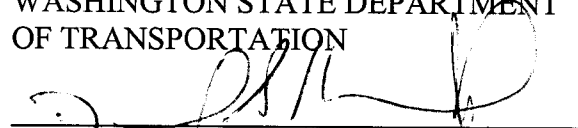
16. **Filing with Auditor.** Prior to its entry into force, this Agreement shall be approved by the City Council of Tumwater, and filed with the Thurston County Auditor.

17. **Authorized Signatures.** The undersigned acknowledges that they are authorized to execute this Agreement and bind their respective agencies to the obligations set forth herein.

CITY OF TUMWATER


Ralph Osgood
Mayor

WASHINGTON STATE DEPARTMENT
OF TRANSPORTATION


Signature

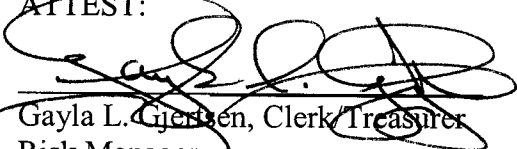
Printed Name:

David S. Hammel

Title:

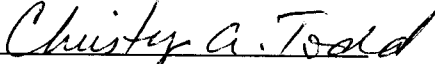
Director of OIT

ATTEST:



Gayla L. Gjersten, Clerk/Treasurer
Risk Manager

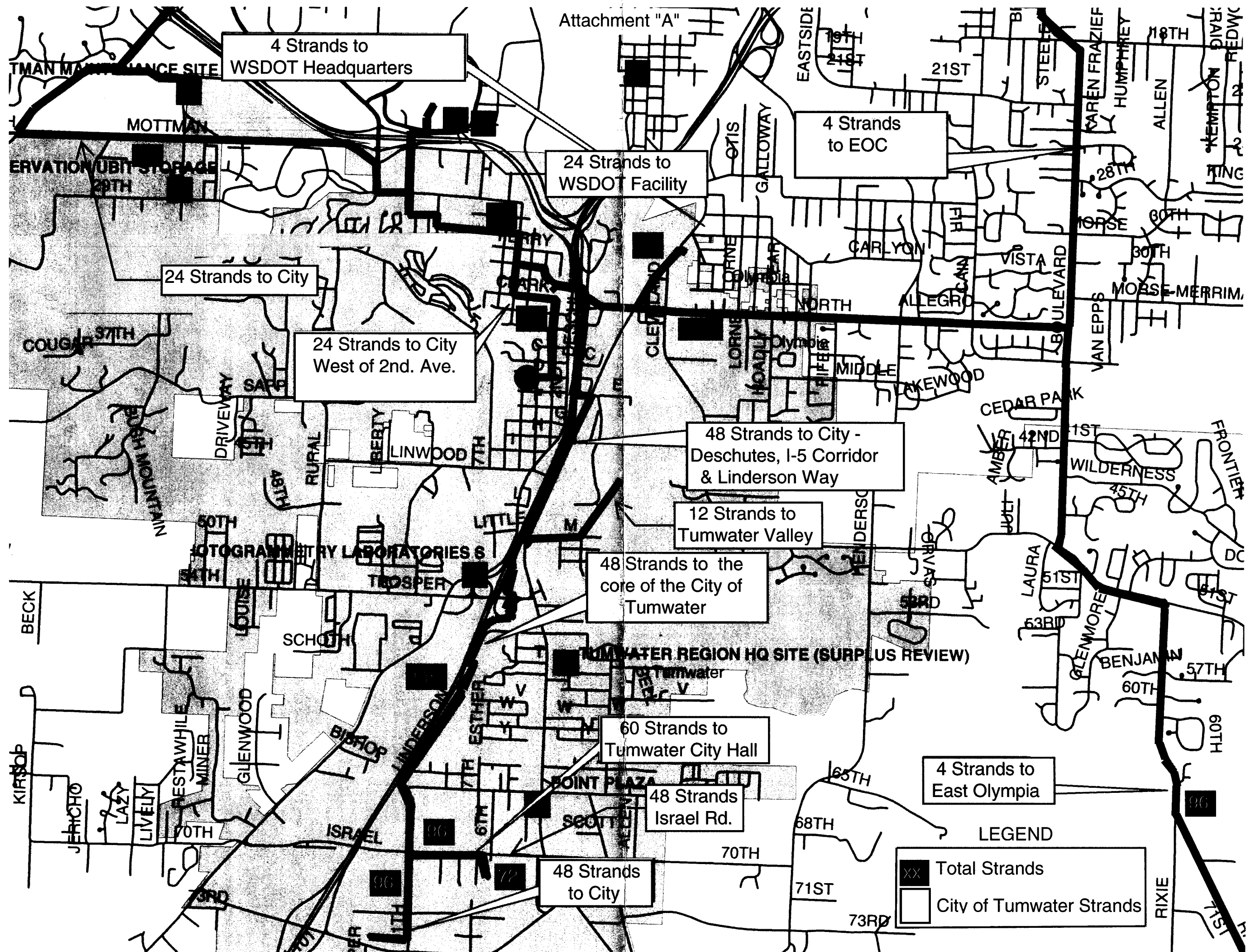
APPROVED AS TO FORM:



Christy A. Todd, City Attorney

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**Washington State
Department of Transportation**
Douglas B. MacDonald
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

Contract No. DP01076

Washington State Department of Transportation

Amendment No. 2

AMENDMENT NO. 2 is entered into by and between City of Tumwater, and the Washington State Department of Transportation ("WSDOT").

This contract is amended as follows:

1. PURPOSE

The purpose of this amendment is for the reimbursement of fiber work completed on DP00984 Wiseman Utilities, Inc. amendment 15 on behalf of the Department of Licensing. The City of Tumwater has agreed to pay the remaining amount owed by the Department of Licensing for this work.

This fiber work extends WSDOT fiber to DOL facilities from the existing cable Vault at the intersection of Israel Road and Linderson Way, along Linderson Way to Tumwater Boulevard, down Tumwater Boulevard to Old Hwy 99, then along Old Hwy 99 to 79th Avenue and into DOL facilities.

This will utilize City of Tumwater existing conduits, installing cable vaults in locations specified by the project manager. In addition, the City of Tumwater will retain ownership of the two installed innerducts purchased on Wiseman Amendment 15. Fiber count will be 156 strands as per provided in the bid of which 60 will be for City of Tumwater. Remaining fiber strands will be for WSDOT usage.

2. COST

Estimated costs are as outlined in the attached email quote. Total costs under this amendment shall not exceed \$33,265.68.

3. REIMBURSEMENT

Reimbursement must be made to WSDOT within two weeks of receipt of invoice or no later than June 30, 2007, whichever date is sooner.

Amendment 2

DP01076


Page 2

4. PERIOD OF PERFORMANCE

This contract is in effect until July 11, 2025.

OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL
FORCE AND EFFECT.

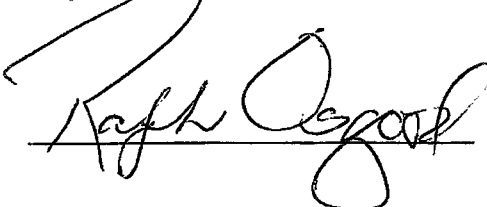
Washington State
Department of Transportation



Grant Rodeheaver, Acting Director
Office of Information Technology

5-16-07
Date

City of Tumwater



May 29, 2007
Date



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

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

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Contract No. DP01076

Washington State Department of Transportation

Amendment No. 4

AMENDMENT NO. 4 is entered into by and between City of Tumwater, and the Washington State Department of Transportation ("WSDOT").

This contract is amended as follows:

1. PURPOSE

The purpose of this amendment is for the installation of fiber optic cable for the Town Center Facility located at 243 Israel Road; Tumwater WA, 98501. Fiber installation work will be completed on DP00984 Wiseman Utilities, Inc. amendment 17. Please see Exhibit A for Vault locations listed under Section 2-D.

2. STATEMENT OF WORK

- A. WSDOT will set aside a new tube of 12 strands for Thurston County of which 10 strands are for future use. This 12 strand tube shall start from the Deschutes Cabinet located at I-5 Mile Post 104 through City of Tumwater splice points at Lee Street Vault, Israel Road / Linderson Road Vault, Capital Way / 79th Avenue Vault and terminate at Thurston County Shop located at 9700 Tilley Road.
- B. Two (2) of twelve (12) strands shall be activated from Thurston County Shop at 7900 Tilley Rd to the Deschutes Cabinet located at I-5 Mile Post 104. Payment for all splicing and terminating for the two strands are included under WSDOT's Wiseman Utilities Inc. Contract DP00984 Amendments 15 and 16.
- C. The City of Tumwater shall have the option to purchase the fiber at a value determined according to Subsection iv below should Thurston County need the remaining 10 strands from the Deschutes Cabinet through to the Thurston County Shop located at 9700 Tilley Road.
 - i. WSDOT shall be responsible for contracting with a qualified Vendor for the splicing, terminating and activating the remaining 10 strands.
 - ii. Thurston County shall be responsible for payment to City of Tumwater for all splicing, terminating and activating the remaining 10 strands.
 - iii. City of Tumwater shall be responsible for reimbursing WSDOT for the cost of the splicing, terminating and activating the remaining 10 strands on behalf of Thurston County.

Amendment 4
DP01076
Page 2

- iv. Fiber value shall be determined by the following formula:
Total Paid Cost of 10 strands of fiber from Wiseman Amendment 17 adjusted for inflation.

D. WSDOT shall provide and install a 96 strand fiber from City Hall Telco Room located at Vault #1 to Vault #6 located at GPS coordinate 46.98501 N 133.90771 W.

- i. WSDOT will provide slack loop and a splice case in Vault #4.
- ii. WSDOT will install one (1) 4" conduit from Vault #4 to Vault #5 located in the parking lot of City of Tumwater Facilities Building located at 7007 Capital Boulevard; Tumwater, WA 98501.
- iii. WSDOT will install two (2) 1" innerducts installed in the 4" conduit from Vault #4 to Vault #7 located on the east side of Capital Blvd.
- iv. WSDOT will install one (1) 4" conduit from Vault #6 to Vault #7
- v. City of Tumwater shall install a signal cabinet next to Vault #4.
- vi. 72 of the 96 strand fiber shall be owned by the City of Tumwater.
 - 1. WSDOT will terminate 12 strands from City Hall to Vault 4 located at GPS coordinate 46.98501 N 133.90771 W.
 - 2. WSDOT will splice 12 strands with an additional 50 foot slack loop of the 96 strand at Vault #4.
- vii. 24 of the 96 strand fiber shall be owned by WSDOT.
 - 1. WSDOT will splice 6 of the 12 strands in at Vault #4 on incoming fiber from the Israel Road / Linderson Rd Vault back to the Deschutes Cabinet located at I-5 Mile Post 104 and over to the Towne Center facility located at 243 Israel Road for WSDOT staff at that site.

3. COST

WSDOT shall pay \$ 47,293.00 plus applicable taxes for the work referenced above. Work shall be completed by WSDOT Contractor Wiseman Utilities Inc. on Amendment 17. The quote is attached as Exhibit B.

Amendment 4
DP01076
Page 3

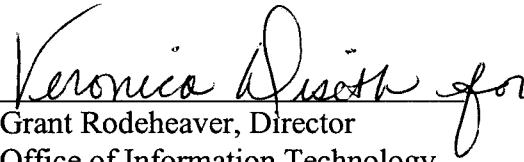
4. PERIOD OF PERFORMANCE

Work shall be completed by March 1, 2008.

This contract is in effect until July 11, 2025

OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL
FORCE AND EFFECT.

Washington State
Department of Transportation




Grant Rodeheaver, Director
Office of Information Technology

1/16/2008

Date

City of Tumwater

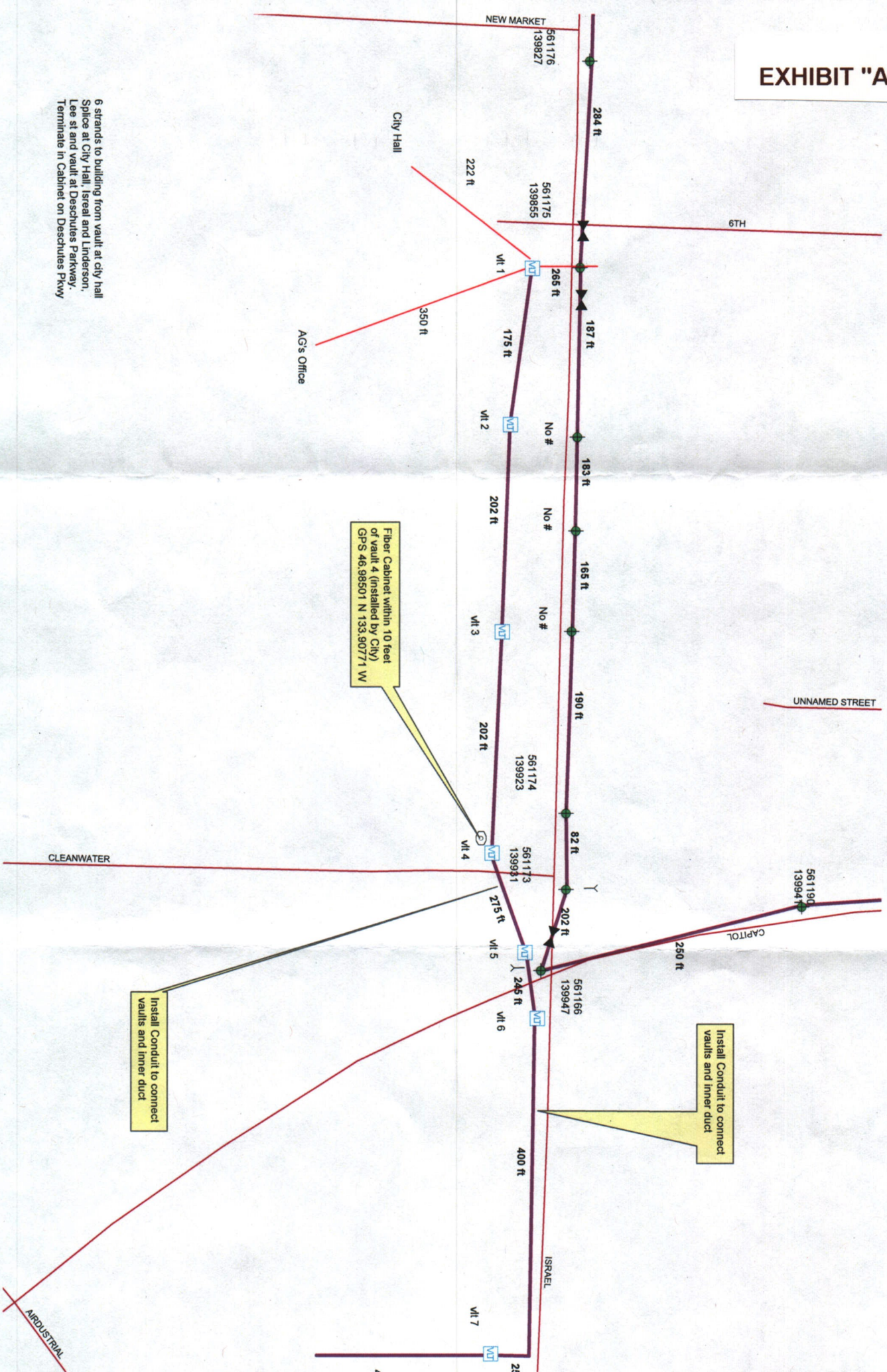


Ralph Osgood, Mayor

1/25/08

Date

EXHIBIT "A"



Wiseman Utilities Inc.
 417 101st Ave SW
 Olympia WA 98512
 (360) 705-0511
 (360) 754-1537 fax
admin.wiseman@comcast.net

EXHIBIT "B"

October 4, 2007

WSDOT Bid Proposal

Subject: Towne Center Bid Proposal-3

Place 96ct. fiber from vault at City Hall to vault on east side of Capitol Blvd.	\$ 3,250.00
Bore 675 ft. 1-4" HDPE and repair asphalt to enter vaults.	28,350.00
Pull 6ct. 1000 ft. with locate wire in existing duct	1,500.00
Install two innerducts approx. 1500	2,625.00
Splice, test and terminate fiber. Install patch panel, re-enter splice case, install connectors, pig tails, bulkheads. 12 strands for City out of 96 ct. 6 strands for WSDOT. Re-open splice cases at 4 locations	<u>11,568.00</u>
Subtotal	\$ 47,293.00
WSST 8.4%	<u>3,972.62</u>
Total	\$ 51,265.62



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

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

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

Contract No. DP01076

Washington State Department of Transportation

Amendment No. 6

AMENDMENT NO. 6 is entered into by and between City of Tumwater, and the Washington State Department of Transportation ("WSDOT").

This contract is amended as follows:

1. PURPOSE

The purpose of this amendment is for the reimbursement of fiber work completed on WSDOT Contract DP00984 with Wiseman Utilities, Inc. Amendment 23 (Attachment A-1) on behalf of Thurston County per the attached quote (Attachment A-2) and diagram (Attachment A-3), herein incorporated by this reference.

The fiber count will be 216 strands as per Attachment A-2 of which 48 will be for City of Tumwater, 48 strands will be for Thurston County and 48 strands for the City of Olympia. The remaining 72 fiber strands will be for WSDOT usage.

Wiseman Utilities shall also install two (2) innerducts per Amendment 23 (Attachment A-1) from MP 104 Cabinet to Thurston County Courthouse. A third innerduct will be installed from the new vault on Deschutes Parkway to Thurston County Courthouse. The Cities of Olympia and Tumwater shall determine ownership of innerducts installed on Amendment 23 (Attachment A-1).

2. COST

Estimated costs are as outlined in the attached quote. Total costs under this amendment shall not exceed \$57,625.00, plus applicable taxes.

3. REIMBURSEMENT

Reimbursement must be made to WSDOT within thirty (30) days of receipt of invoice.

Amendment 6
DP01076
Page 2

4. PERIOD OF PERFORMANCE

This contract is in effect until July 11, 2025.

OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL
FORCE AND EFFECT.

Washington State
Department of Transportation

Veronica Diseth

Grant Rodeheaver, Director
Office of Information Technology

8/4/08

Date

City of Tumwater

Ralph Osgood
Ralph Osgood, Mayor

8/7/08

Date

Contract No. DP00984**Washington State Department of Transportation****Amendment No. 23**

AMENDMENT NO. 23 is entered into by and between Wiseman Utilities, Incorporated and the Washington State Department of Transportation ("WSDOT").

1. PURPOSE

This amendment is for the Thurston County Courthouse fiber build. The fiber build will begin at I-5 Milepost 104 cabinet and extend to the Thurston County Courthouse as indicated on Attachment A.

2. COST

Estimated costs for this amendment is outlined in the attached email. Total costs for this amendment shall not exceed \$62,625.00, plus applicable taxes.

3. PERIOD OF PERFORMANCE

The work outlined in this amendment shall be completed within thirty (30) days of the last signature date.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL FORCE AND EFFECT.

**Washington State
Department of Transportation**

Wiseman Utilities, Inc.

Grant Rodeheaver, Director
Office of Information Technology

Kevin Wiseman

Date

Date

DP00984

1

Amendment 23

WISEMAN UTILITIES INC

417 101st Ave SW
 Olympia WA 98512
 (360) 705-0511
 (360) 754-1537 Fax

DP01076 Amendment 6
 Attachment A-2

PROPOSAL

JOB NAME: Deschutes Pkwy to TC Courthouse Tumwater #2

Scope of Work:**Footages:**

Pig tail in bldg 1 - 50 feet
 In conduit in bldg 1 - 175 feet
 Bldg to pull boxes 75 feet
 Pull Box to Pull Box - 300 feet
 Existing Pull box to New Pull box - 75 feet
 Down Hill - 1240 feet - 3 inner ducts (1 w/fiber 2 empty)
 Leg 1 Deschutes Pkwy - 740 - 2 inner ducts (1 w/fiber 1 empty)
 Leg 2 Deschutes Pkwy - 1000 - 2 inner ducts (1 w/fiber 1 empty)
 Leg 3 Deschutes Pkwy - 712 - 2 inner ducts (1 w/fiber 1 empty)
 Leg 4 Deschutes Pkwy - 1000 - 2 inner ducts (1 w/fiber 1 empty)
 Leg 5 Deschutes Pkwy - 920 - 2 inner ducts (1 w/fiber 1 empty)
 Leg 6 Deschutes Pkwy - 50 - 2 inner ducts (1 w/fiber 1 empty)
 Leg 7 Deschutes Pkwy - 375 - 2 inner ducts (1 w/fiber 1 empty)
 Leg 8 Deschutes Pkwy - 1000 - 2 inner ducts (1 w/fiber 1 empty)
 Pull box to Vault - 75 feet
 Pig tail, vault - Cabinet - 75 feet

Splicing / Panels:

Splice 24 strands from Court House to Cabinet, have port availability for all strands in 19 inch rack mount panels at each end (do not need bulkheads but rack must have enough capacity for all strands)
 100 foot coils of fiber in each vault

3 inner ducts installed into conduits
 Along Deschutes Parkway and up hill to Courthouse
 6 new vaults

Fiber footage total: 8637 feet

Subtotal	\$ 62,625.00
WSST 8.4%	5,260.50
Total	\$ 67,885.50





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

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

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

Contract No. DP01076

Washington State Department of Transportation

Amendment No. 7

AMENDMENT NO 7 is entered into by and between City of Tumwater, and the Washington State Department of Transportation ("WSDOT")

This contract is amended as follows

1 PURPOSE

The purpose of this amendment is to document the WSDOT Olympic Region Point Plaza Facility fiber build to be completed on WSDOT Contract DP00984 Wiseman Utilities, Inc Amendment 25 attached as Attachment A and herein incorporated by this reference.

2 COST

Total cost of this amendment shall be zero dollars and zero cents (\$0.00)

3 PERIOD OF PERFORMANCE

The period of performance for this amendment shall be the last signature date.

This contract is in effect until July 11, 2025

OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL FORCE AND EFFECT

**Washington State
Department of Transportation**

Grant Rodeheaver, Director
Office of Information Technology

3-25-08

Date

City of Tumwater

Ralph Osgood, Mayor

April 8, 2008

Date



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

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia WA 98504-7300
360-705-7000
TTY 1-800-833-6388
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Contract No. DP00984

Washington State Department of Transportation

Amendment No. 25

AMENDMENT NO. 25 is entered into by and between Wiseman Utilities, Incorporated and the Washington State Department of Transportation ("WSDOT")

1 PURPOSE

This amendment is for a fiber build from Tumwater City Hall located at 555 Israel Road S.W., Tumwater, WA 98501 to WSDOT Olympic Region Point Plaza Facility located at 6639 Capital Blvd, Tumwater, WA 98501 as outlined on the attached diagram (Attachment A). The fiber build will include:

- extending a 6 ct. fiber strands from Tumwater City Hall to WSDOT Olympic Region Point Plaza facility; and
- splicing and terminating fiber from Tumwater City Hall vault, Israel and Linderson vault, Lee Street vault and Deschutes Parkway cabinet as indicated on Attachment A.

2. COST


Estimated costs for this amendment is outlined in the attached quote. Total costs for this amendment shall not exceed \$16,715.00, plus applicable taxes

3 PERIOD OF PERFORMANCE

The work outlined in this amendment shall be completed within 30 days of the last signature date.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL FORCE AND EFFECT

Washington State
Department of Transportation



Grant Rodeheaver, Director
Office of Information Technology

Wiseman Utilities, Inc.

Kevin Wiseman

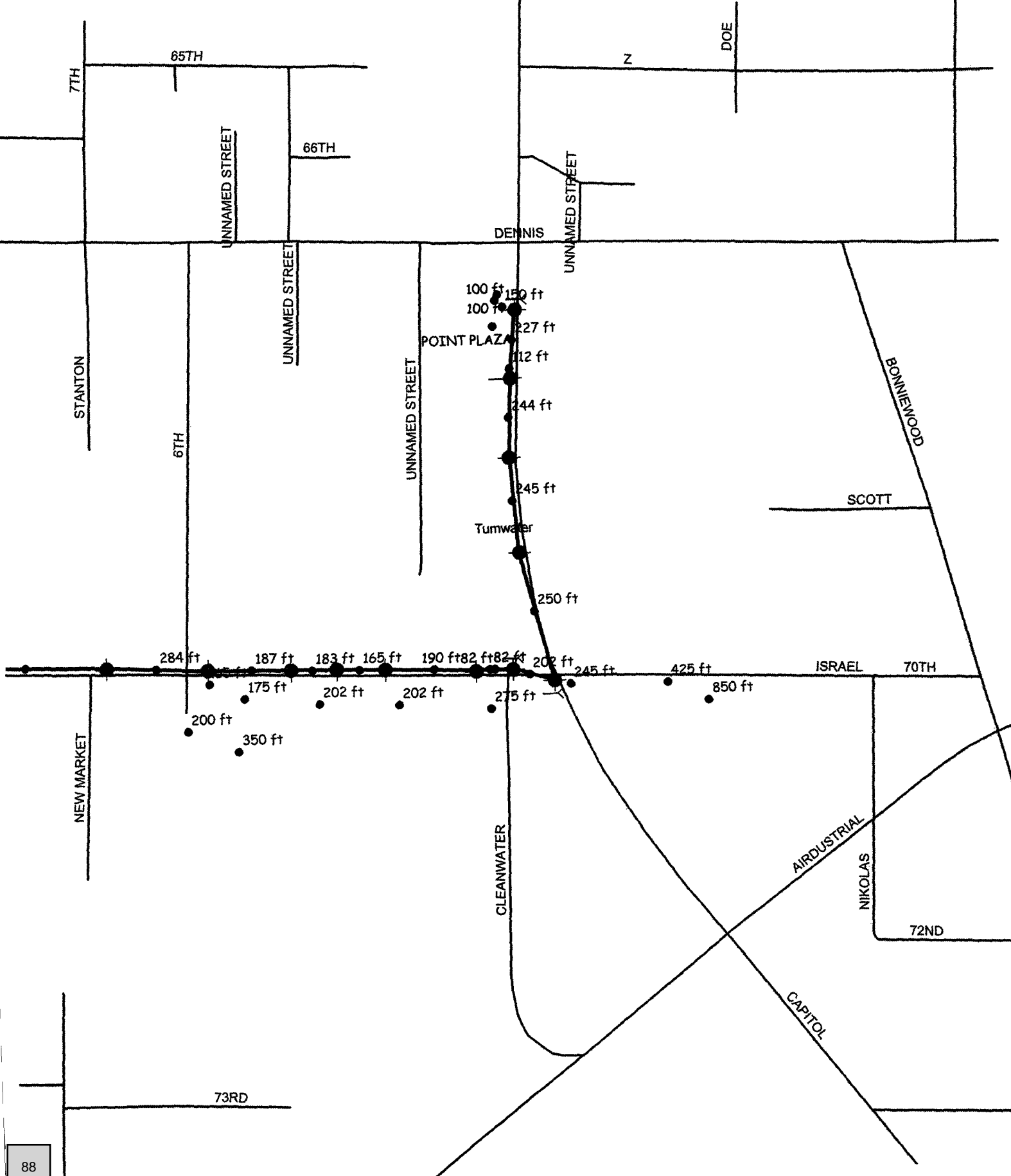
3-25-03
Date

DP00984

Date

Amendment 25

Attachment A-2





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

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

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

Contract No. DP01076

Washington State Department of Transportation

Amendment No. 8

AMENDMENT NO 8 is entered into by and between City of Tumwater, and the Washington State Department of Transportation ("WSDOT").

This contract is amended as follows.

1 PURPOSE

The purpose of this amendment is to document the WSDOT GEO Services Office fiber build to be completed on WSDOT Contract DP00984 Wiseman Utilities Inc. Amendment 26 attached as Attachment A-1 and Attachment A-2, herein incorporated by this reference.

Per the attached Attachment A-1, one (1) 2 inch conduit shall be for the City of Tumwater use only

WSDOT shall install one pole box, for the conduit identified above, at the base of the pole located in front of 818 79th Avenue; Tumwater WA.

2. COST

Total cost of this amendment shall be zero dollars and zero cents (\$0 00).


3 PERIOD OF PERFORMANCE

The period of performance for this amendment shall be the last signature date.

This contract is in effect until July 11, 2025

OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL FORCE AND EFFECT

**Washington State
Department of Transportation**

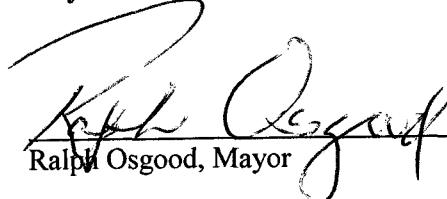


Grant Rodeheaver, Director
Office of Information Technology

6-12-08

Date

City of Tumwater



Ralph Osgood, Mayor

8/19/08

Date

DP01076 Amendment 8 Attachment A-1

Contract No. DP00984

Washington State Department of Transportation

Amendment No. 26

AMENDMENT NO 26 is entered into by and between Wiseman Utilities, Incorporated and the Washington State Department of Transportation ("WSDOT").

1 PURPOSE

This amendment is for a fiber build for voice and data connectivity from State Route 99 to the new GEO Services Office located at 818 79th Avenue in Tumwater, WA as outlined on the attached diagram (Attachment A). The scope of work will include:

- Placing two (2) 2 inch conduit from the vault located at 79th Avenue and Capitol Blvd; Tumwater WA to a pole located in front of 818 79th Avenue; Tumwater WA,
- Placing a 12 strand single mode fiber from the GEO Services Office Building to the vault located at 79th Avenue and Capitol Blvd,
- Splicing a 6 ct. pigtail at GEO Services Office Building and installing a fiber patch panel,
- Re-entering the splice case at the vault located on the west side of State Route 99 and splicing 6 fibers to the black tube 7 - 12, *and*
- Splicing 6 fibers in the vaults located at Israel and Linderson Way, Lee Street, and the I-5 cabinet at MP 104

2. COST

Estimated costs for this amendment is outlined in the attached quote. Total costs for this amendment shall not exceed \$33,253 00, plus applicable taxes.

3 PERIOD OF PERFORMANCE

The work outlined in this amendment shall be completed within 30 days of the last signature date.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL FORCE AND EFFECT

**Washington State
Department of Transportation**

Wiseman Utilities, Inc.

Grant Rodeheaver, Director
Office of Information Technology

Kevin Wiseman

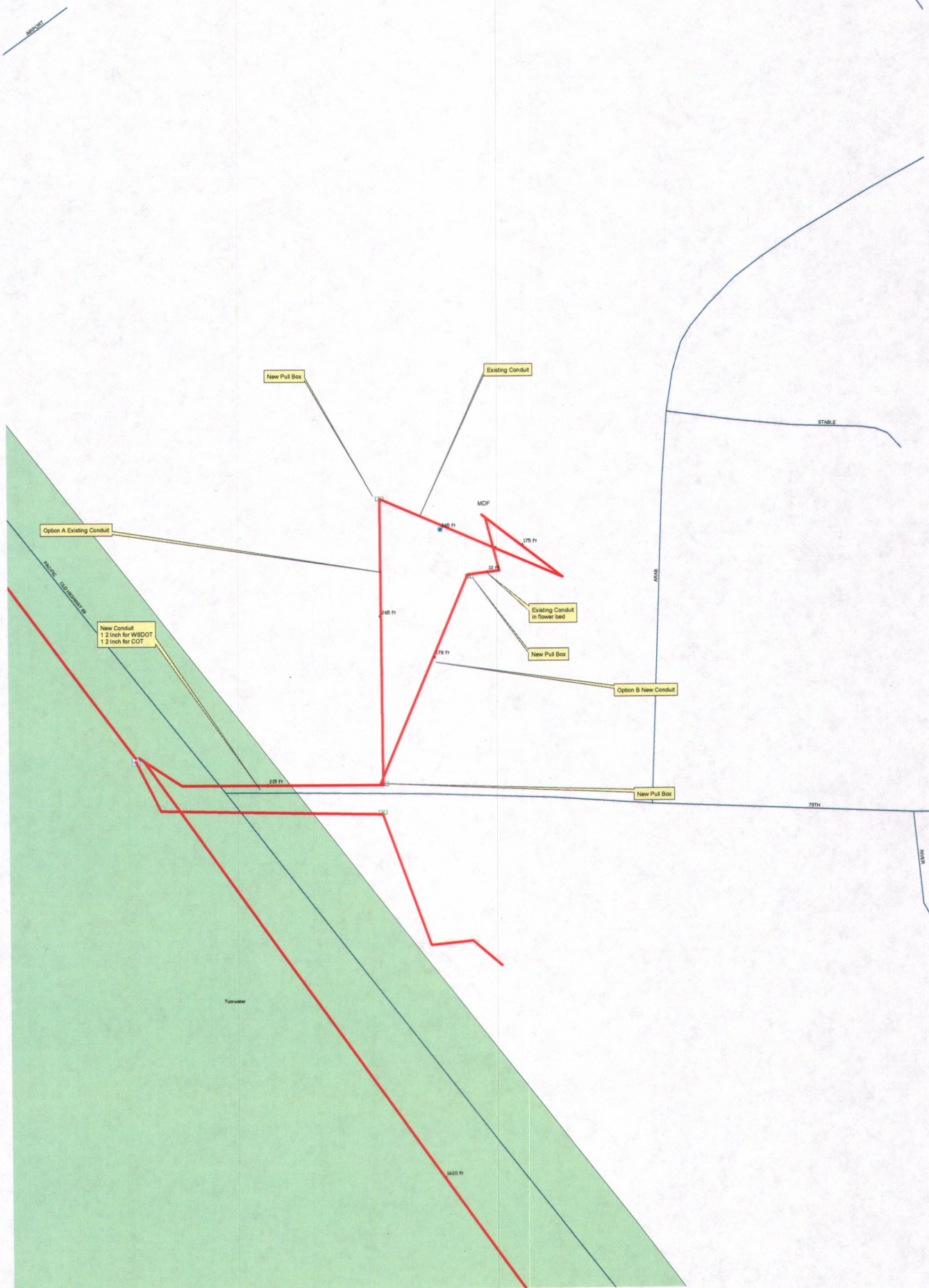
Date

Date

DP01076

1

Amendment 8
Attachment A-1





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

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

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

Contract No. DP01076

Washington State Department of Transportation

Amendment No. 9

AMENDMENT NO 9 is entered into by and between City of Tumwater, and the Washington State Department of Transportation ("WSDOT")

This contract is amended as follows

1 PURPOSE

The purpose of this amendment is for the reimbursement of work performed on WSDOT Contract DP00984 Wiseman Utilities Amendment 16-2 attached as Attachment A-1 and A-2, herein incorporated by this reference. The City of Tumwater on behalf Thurston County is requesting to extend the underground conduit beginning at 79th Avenue, 88th Avenue, North Tilley Road, 93rd Avenue, and South Tilley Road and ending at Thurston County Roads Maintenance Shop located at 9605 Tilley Road SW

2 COST

Estimated costs are as outlined in the attached email quote. Total costs under this amendment shall not exceed \$190,917.00, plus applicable taxes.

3 REIMBURSEMENT

Reimbursement must be made to WSDOT within 30 days of receipt of invoice.

4 PERIOD OF PERFORMANCE

The period of performance for this amendment shall be the last signature date. This contract is in effect until July 11, 2025.

OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL FORCE AND EFFECT

**Washington State
Department of Transportation**

Bill Ford, Assistant Secretary
Administration

City of Tumwater

Ralph Osgood, Mayor

6-19-08
Date

6/5/08
Date

**DP01076 Amendment 9
Attachment A-1****Contract No. DP00984****Washington State Department of Transportation****Amendment No. 16-2**

AMENDMENT NO 16-2 is entered into by and between Wiseman Utilities, Inc. and the Washington State Department of Transportation ("WSDOT")

This contract is amended as follows

1 PURPOSE

The purpose of this amendment is to extend WSDOT's fiber to the Thurston County Shop Facilities up to SR121 interchange per the attached diagram listed as Attachment 16-2 A.

2. COST

Estimated costs are as outlined in the attached email quote. Total costs under this amendment shall not exceed \$190, 918 00, plus applicable taxes.

3 PERIOD OF PERFORMANCE

This contract is in effect through February 28, 2009

**ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN
FULL FORCE AND EFFECT**

**Washington State
Department of Transportation**

Wiseman Utilities, Inc.

Bill Ford, Assistant Secretary
Administration

Kevin Wiseman

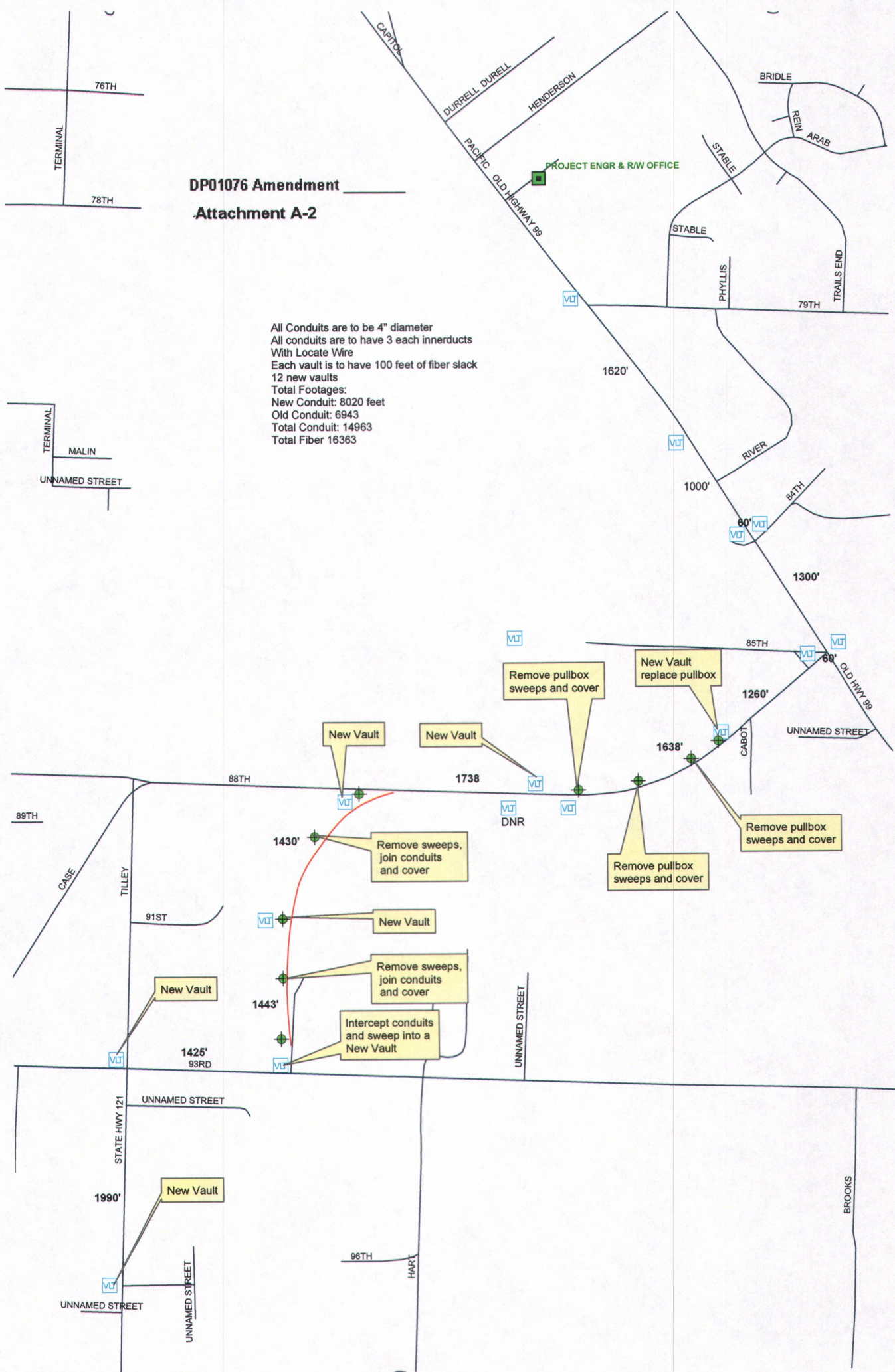
Date

Date

DP01076

1

Amendment 9
Attachment A-1





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

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

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

June 23, 2008

City of Tumwater
Attn. Brian Scharber
555 Israel Road S W
Tumwater, WA 98501-6515

RE WSDOT Contract No DP01076
Amendment 9

Dear Mr Scharber

Enclosed is one (1) originals of the above referenced Contract Amendment with Washington State Department of Transportation (WSDOT) Please retain this original for your records.

Feel free to contact me at barryja@wsdot.wa.gov or (360) 705-7547 if you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Jaylene Barry".

Jaylene Barry, Contracts Administrator
Administrative Services Contracts

Enclosures



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

Transportation Building
310 Maple Park Avenue SE
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

Contract No. DP01076

Washington State Department of Transportation

Amendment No. 10

This is AMENDMENT No. 10 (**Amendment**) to that certain agreement entitled Fiber Optic Cabling *NO. DP01076*, dated July 11, 2005, between the Washington State Department of Transportation (“WSDOT”) and the City of Tumwater (“**City**”), as amended by Amendment 2, dated May 27, 2007; Amendment 3, dated May 16, 2007; Amendment 4, dated January 25, 2008; Amendment 6, dated August 7, 2008; Amendment 7, dated April 8, 2008; Amendment 8, dated August 19, 2008 and Amendment 9, dated June 5, 2008.

RECITALS

- A. WHEREAS, WSDOT and City are parties to the Contract, which provides for the installation and maintenance of fiber optic cabling.
- B. WHEREAS, Pursuant to Section 7 “Optional Work” of the Contract, WSDOT and Vendor have negotiated to install, splice and terminate fiber optic cable at a new location.
- C. WSDOT and City desire to amend the Contract to add the additional work and to add additional terms and conditions in the Contract.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained herein, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Pursuant to section 7, “Optional Work”, WSDOT shall contract with Wiseman Utilities Inc to splice and terminate 18 strands of fiber optic cabling for the City of Tumwater per the attached quote labeled as Exhibit B to this amendment and, herein incorporated by this reference.
2. A new Attachment A-1 “Direct Fiber Path”, dated November 1, 2010, is hereby incorporated into this Contract. This Attachment A may be updated by written amendment to this Contract and shall be identified in numerical order (i.e. Attachment A-1, A-2, A-3, etc.).

3. Statement of Work

3.1. The City shall agree:

- 3.1.1. Provide to WSDOT six strands of the City fiber, as indicated in Attachment A-1 from Interstate 5 (I-5) Milepost (MP) 104 Fiber Cabinet on Deschutes Way (located at Latitude 47° 1'2.37"N and Longitude 122°54'20.28"W) to Crites Street SW Tumwater WA 98512 (located at Latitude 47° 1'31.04"N and Longitude 122°56'43.56"W).

3.2. WSDOT shall agree:

- 3.2.1. Provide to the City two strands of WSDOT fiber running, as indicated in Attachment A-1 from I-5 MP 104 Fiber Cabinet on Deschutes Way to WSDOT Headquarters (HQ) located at 310 Maple Park Drive, Olympia WA 98501.
- 3.2.2. Provide to the City 2 strands of fiber from WSDOT HQ located at 310 Maple Park Drive, Olympia WA 98501 to the Capital Communications (CAPCOM) Emergency Operation Center (EOC) at 2703 Pacific Ave SE # A Olympia, WA 98501.
- 3.2.3. Patch through the connection from I-5 MP104 fiber cabinet to CAPCOM EOC at the WSDOT HQ fiber patch panel located at 310 Maple Park Drive, Olympia WA 98501.
- 3.2.4. These 2 strands are given in trade for the fiber from the City in section 3.1.1 above.

3.3. WSDOT and the City agree

- 3.3.1. 18 strands of fiber will be terminated at the I-5 MP 104 Fiber Cabinet on Deschutes Way (located at Latitude 47° 1'2.37"N and Longitude 122°54'20.28"W).
- 3.3.2. 18 strands of fiber will be spliced through at the corner of N 7th Ave SW & Emerson St SW Tumwater, WA 98512.
- 3.3.3. 18 strands of fiber will be spliced through at Irving St SW & N 7th Ave SW Tumwater, WA 98512.
- 3.3.4. 18 strands of fiber will be spliced into Crites Street SW Tumwater WA 98512 (located at Latitude 47° 1'31.04"N and Longitude 122°56'43.56"W) to a fiber cabinet located there for City of Tumwater.

4. Compensation

4.1. The City shall reimburse to WSDOT a lump sum amount of Seven Thousand, Two Hundred Twenty-Seven and No/100 Dollars (\$7,227.00), plus any applicable taxes for all Work pursuant to Sections 1 thru 3 of this amendment herein.

4.2. The new maximum consideration for this contract shall not exceed Four Hundred Twenty-Five Thousand and No/100 Dollars (\$425,000.00).

5. **Effective Date.** The effective date of this amendment shall be the date of last signature.

6. Affect on Other Provisions.

6.1. All other provisions and exhibits of the Agreement remain in full force and effect and are not altered or affected in any way unless specifically modified herein.

6.2. The provisions of the Agreement, as modified by this Amendment, shall apply equally to any and all other provisions in the Agreement as though the modified provisions were original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto, having read this Amendment in its entirety, including all exhibits and attachments, do agree in each and every particular and intending to be legally bound have executed this Amendment.

City of Tumwater

**Washington State
Department of Transportation**



Pete Kmet, Mayor

1/25/11

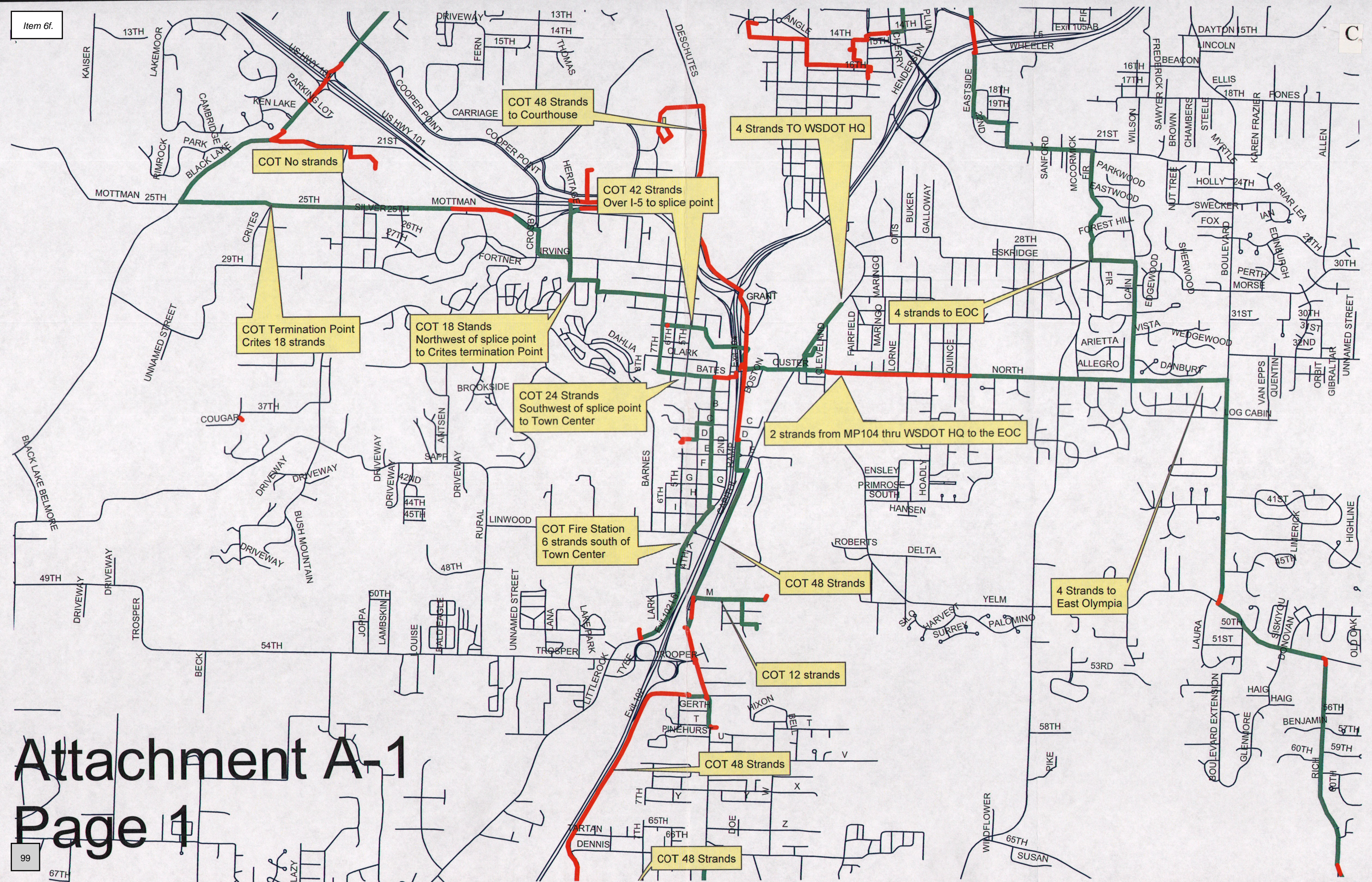
Date

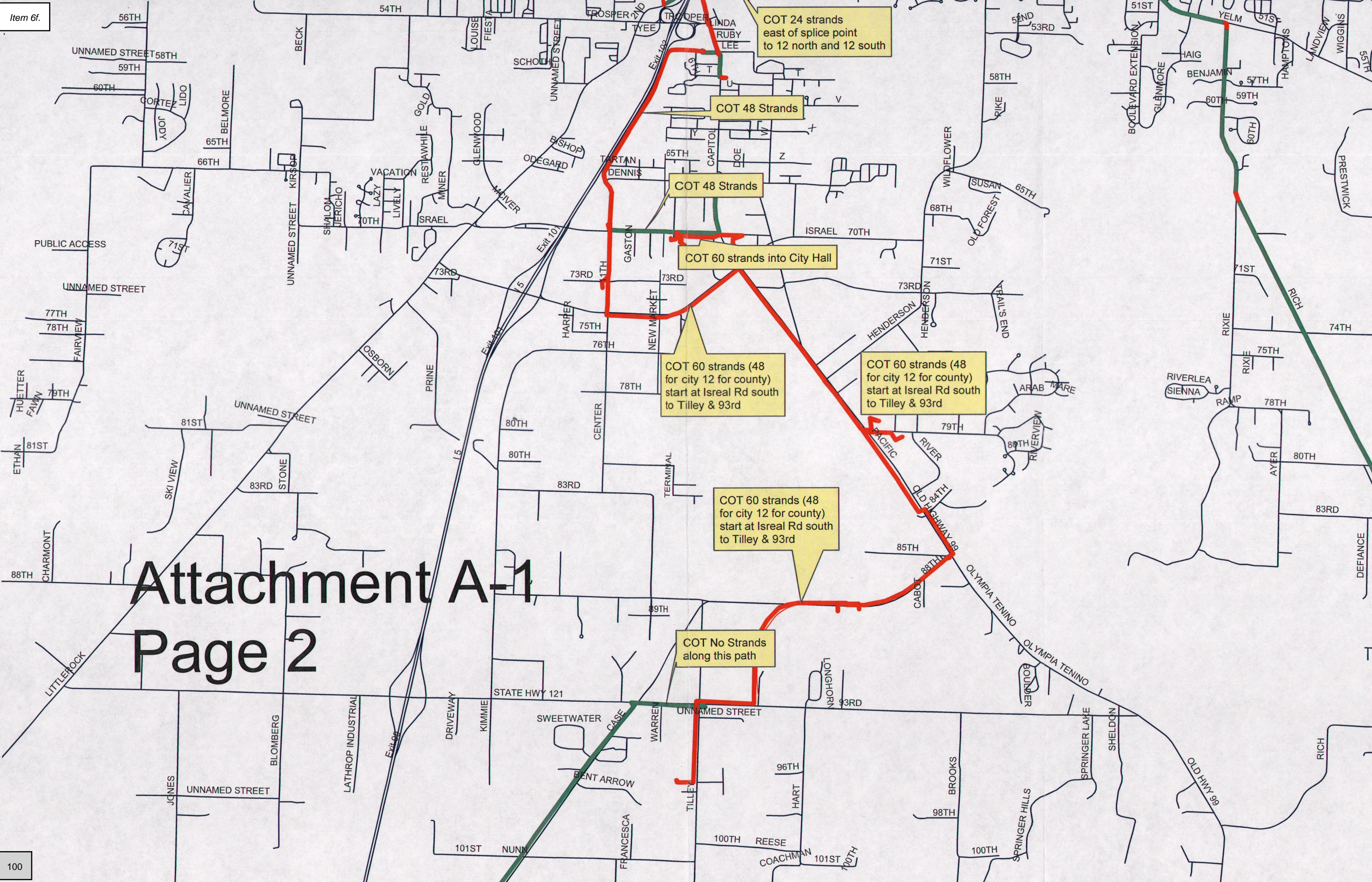


Grant Rodeheaver, Director
Office of Information Technology

1/21/11

Date





Attachment A-1

Page 2



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

Transportation Building
310 Maple Park Avenue SE
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

January 24, 2011

City of Tumwater
Attn: Brian Scharber
555 Israel Road SW
Tumwater, WA 98501-6515

RE: WSDOT Contract No. DP01076
Amendment 10

Dear Mr. Scharber:

Enclosed is one (1) original of the above referenced Contract Amendment with Washington State Department of Transportation (WSDOT) and one (1) additional original signature page.

Please sign both copies where indicated. Retain one (1) original for your records **and return one (1) original signature page to my attention at:**

If using USPS:
Washington State Department of Transportation
Administrative Services Contracts
P.O. Box 47408
Olympia, WA 98504-7408.

If using UPS, FedEx, etc
WSDOT Contracts Office
Attn: Jaylene Barry
719 Sleater Kinney Rd. SE
Lacey, WA 98503

Feel free to contact me at barryja@wsdot.wa.gov or (360) 705-7547 if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jaylene Barry'.

Jaylene Barry, Contracts Administrator
Administrative Services Contracts

Enclosures

JB:jk



**Washington State
Department of Transportation**
Douglas B. MacDonald
Secretary of Transportation

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

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

Contract No. DP01076

Washington State Department of Transportation

Amendment No. 3

AMENDMENT NO. 3 is entered into by and between City of Tumwater, and the Washington State Department of Transportation ("WSDOT").

This contract is amended as follows:

1. PURPOSE

The purpose of this amendment is for the reimbursement of fiber work completed on DP00984 Wiseman Utilities, Inc. amendment 16 on behalf of the City of Tumwater.

Amendment 16 of DP00984 will extend WSDOT's fiber to the Thurston County Shop Facilities on Tilley Road.

The extension will begin from the existing cable Vault at the intersection of 79th Avenue and Old Hwy 99 to 88th Avenue, to 93rd Avenue into the Thurston County Shop Facility on Tilley Road.

This will utilize City of Tumwater existing conduits, installing cable vaults in locations specified by the project manager. In addition, the City of Tumwater will retain ownership of the two installed innerducts purchased on Wiseman Amendment 16. Fiber count will be 156 strands as per provided in the bid of which 60 will be for City of Tumwater. Remaining fiber strands will be for WSDOT usage.

2. COST

Estimated costs are as outlined in the attached email quote. Total costs under this amendment shall not exceed \$99,536, plus applicable taxes.

3. REIMBURSEMENT

Reimbursement must be made to WSDOT within two weeks of receipt of invoice. If the invoice is received prior to June 30, 2007, reimbursement must be made before that date.

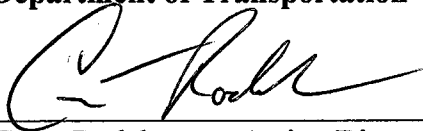
Amendment 3
DP01076
Page 2

4. PERIOD OF PERFORMANCE

This contract is in effect until July 11, 2025.

OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL
FORCE AND EFFECT.

Washington State
Department of Transportation



Grant Rodeheaver, Acting Director
Office of Information Technology

5-16-07
Date

City of Tumwater



1-20-11
Date



**Washington State
Department of Transportation**
Douglas B. MacDonald
Secretary of Transportation

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

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

Contract No. DP00984

Washington State Department of Transportation

Amendment No. 16

AMENDMENT NO. 16 is entered into by and between Wiseman Utilities, Inc. and the Washington State Department of Transportation ("WSDOT").

This contract is amended as follows:

1. PURPOSE

The purpose of this amendment is to extend WSDOT's fiber to the Thurston County Shop Facilities on Tilley Road.

The extension will begin from the existing cable Vault at the intersection of 79th Avenue and Old Hwy 99, then along Old Hwy 99 to 88th Avenue, to 93rd Avenue into the Thurston County Shop Facility on Tilley Road.

2. COST

Estimated costs are as outlined in the attached email quote. Total costs under this amendment shall not exceed \$99,536.00, plus applicable taxes.

3. PERIOD OF PERFORMANCE

This contract is in effect through February 28, 2008.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL FORCE AND EFFECT.

**Washington State
Department of Transportation**

Wiseman Utilities, Inc.

Grant Rodeheaver, Acting Director
Office of Information Technology

Date

Date

DP00984

1

Amendment 16

Barry, Jaylene J.

Amend 16

From: Turner, Todd
 Sent: Friday, May 11, 2007 12:40 PM
 To: Barry, Jaylene J.
 Subject: Fw: Re: 79th to T. C. Shop fiber pricing : UNDERGROUND

Fyi

Todd

-----Original Message-----

From: Diane Killingsworth
 To: Todd Turner
 Sent: May 11, 2007 7:52 AM
 Subject: Fw: Re: 79th to T. C. Shop fiber pricing : UNDERGROUND

-----Original Message-----

From: Kevin Wiseman <mailto:kevinwiseman@comcast.net>
 Date: 4/20/2007 7:52:26 AM
 To: Kevin Wiseman <mailto:kevinwiseman@comcast.net> ; BRIAN SCHARBER <mailto:bscharber@ci.tumwater.wa.us>
 Cc: admin.wiseman@comcast.net
 Subject: Re: 79th to T. C. Shop fiber pricing : UNDERGROUND

This is a revised bid having the entire run in conduit.

Brian the following is an estimated quantity. The actual amounts could vary depending on the actual route quantities.

Distance is approx. 14,300 ft

Underground run from shop to Tilley intersection is 3035 ft.

3 vaults @ 3500 ea.

10,500.00

Install fiber and 2-innerducts for 3035 ft. @ 2.50 ft.

7588.00

Splicing 36 CT.

2485.00

Fiber needed with storage is 15750 ft. 156ct. @ 1.45 ft.

22,838.00

Underground section is 11,250 ft.

8 vaults @ 3500 ea.

28,000.00

2-innerducts for 11,250 ft. @ .75

8,437.00

Labor to install fiber and innerducts @ 1.75 ft.

19,688.00

Sub total cost for this phase

99,536.00

Total adjusted cost

131,536.00



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

Transportation Building
310 Maple Park Avenue SE
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

Contract No. DP01076

Washington State Department of Transportation

Amendment No. 11

This is AMENDMENT No. 11 (**Amendment**) to that certain agreement entitled Fiber Optic Cabling *NO. DP01076*, dated July 11, 2005, between the Washington State Department of Transportation ("WSDOT") and the City of Tumwater ("**City**"), as amended by Amendment 2, dated May 29, 2007; Amendment 3, dated January 20, 2011; Amendment 4, dated January 25, 2008; Amendment 6, dated August 7, 2008; Amendment 7, dated April 8, 2008; Amendment 8, dated August 19, 2008, Amendment 9, dated June 19, 2008 and Amendment 10, dated January 25, 2011.

RECITALS

A. WHEREAS, WSDOT and City are parties to the Contract, which provides for the installation and maintenance of fiber optic cabling.

B. WHEREAS, Pursuant to Section 7 "Optional Work" of the Contract, WSDOT and Vendor have negotiated to install, splice and terminate fiber optic cable at a new location.

C. WSDOT and City desire to amend the Contract to add the additional work and to add additional terms and conditions in the Contract.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained herein, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Pursuant to section 7, “Optional Work”, WSDOT shall contract with Wiseman Utilities Inc to install one (1) each four (4) inch conduit under Capital Way at Sunset Life from existing vault to PSE power pole and provide City of Tumwater with two (2) each one (1) inch ducts within the four (4) inch conduit per the attached map, labeled as **Attachment 1**.

2. Statement of Work

2.1. The City shall agree:

- 2.1.1. Provide access to WSDOT to have conduit placed under Capital Way at Sunset Life from existing vault to PSE power pole. City shall agree to waive all permit fees for this project. WSDOT will place fiber on PSE pole line from Custer Way south along Cleveland to the 4000 block of Cleveland.

2.2. WSDOT shall agree:

- 2.2.1. WSDOT shall contract with Wiseman Utilities Inc to install one (1) each four (4) inch conduit with four (4) each inner ducts under Capital Way at Sunset Life from existing vault to PSE power pole and provide City of Tumwater with two (2) each of the four (4) ducts. Once the fiber build is completed from this location to WSDOT HQ, WSDOT will provide City of Tumwater with six (6) each strands from MP 104 to WSDOT HQ. WSDOT shall also place twenty-four (24) strand of fiber from Custer Way along Cleveland Avenue to the 4000 block and reserve twelve (12) strands of the twenty-four (24) for future city usage. The City will pay its pro rata share of any repair cost on the six (6) strands from Mile post 104 to WSDOT HQ and twelve (12) strands along Cleveland Avenue. This repair cost sharing does not impact existing infrastructure.

3. Compensation

- 3.1. There will be no compensation in this agreement.

4. **Effective Date.** The effective date of this amendment shall be the date of last signature.

5. Affect on Other Provisions.

- 5.1. All other provisions and exhibits of the Agreement remain in full force and effect and are not altered or affected in any way unless specifically modified herein.

5.2. The provisions of the Agreement, as modified by this Amendment, shall apply equally to any and all other provisions in the Agreement as though the modified provisions were original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto, having read this Amendment in its entirety, including all exhibits and attachments, do agree in each and every particular and intending to be legally bound have executed this Amendment.

City of Tumwater



Pete Kmet, Mayor

1-26-12

Date

**Washington State
Department of Transportation**



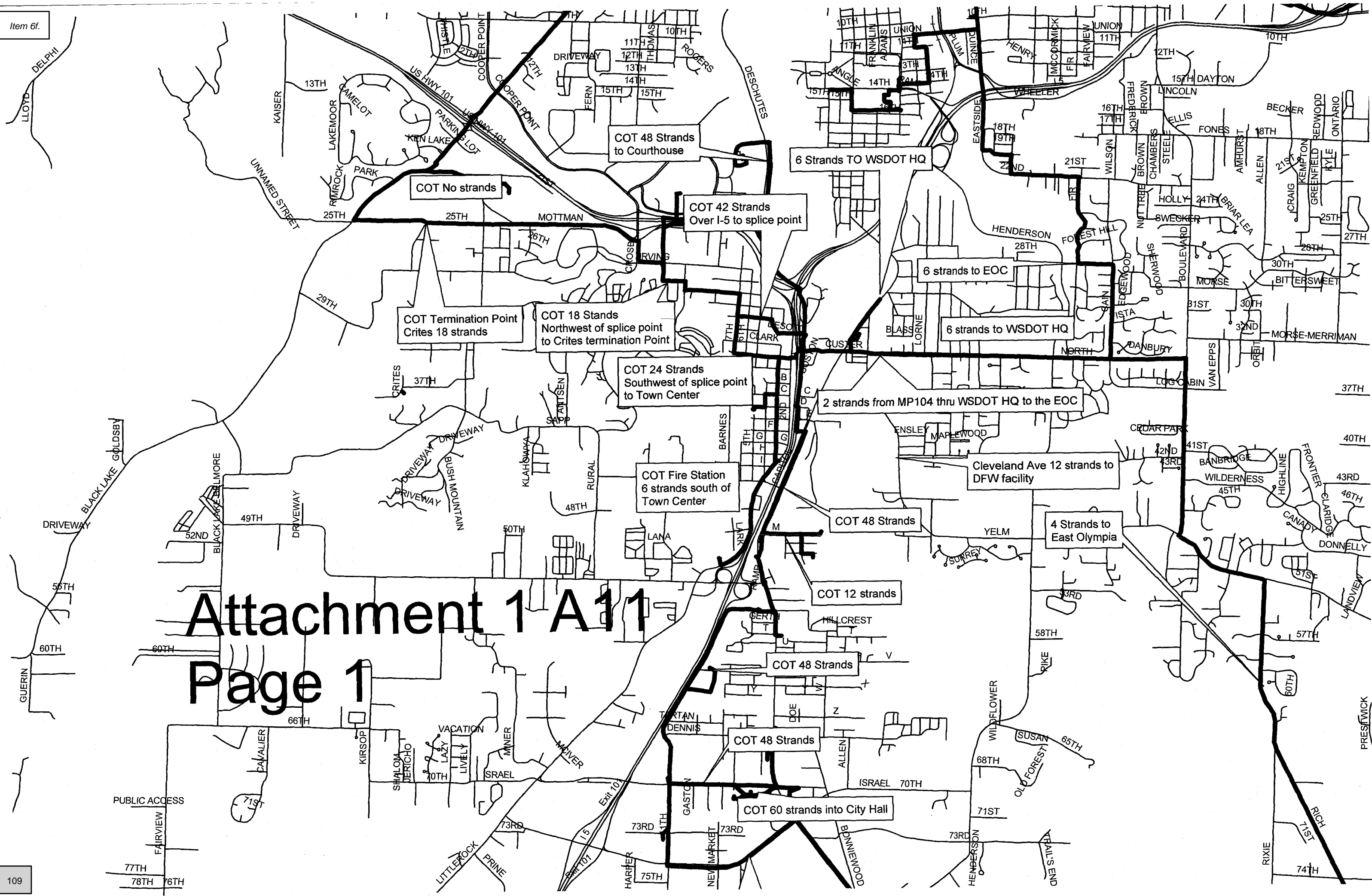
Grant Rodeheaver, Director
Office of Information Technology

1-12-12

Date

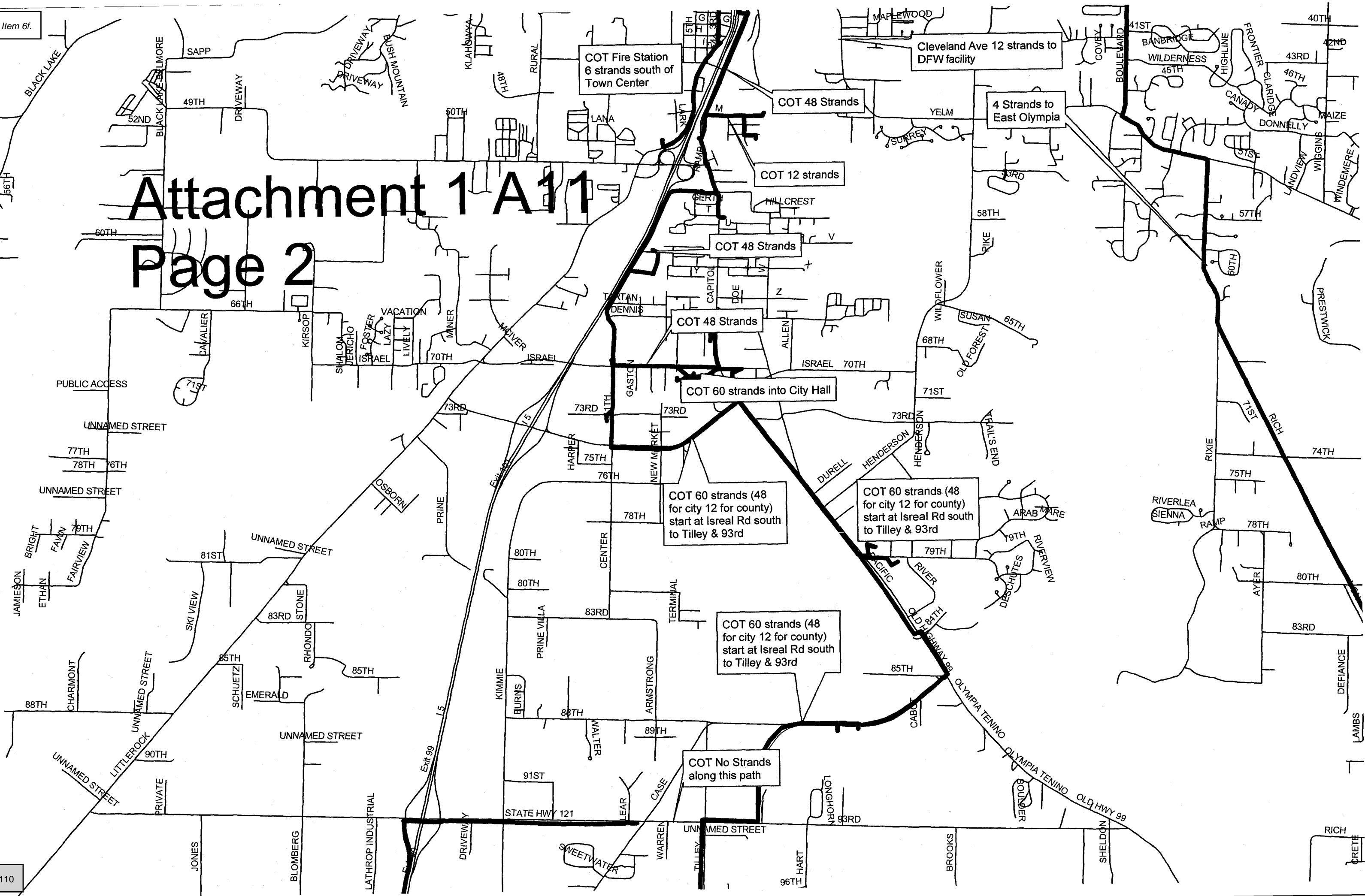
Attachment 1 A11

Page 1



Attachment 1 A11

Page 2





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

Transportation Building
310 Maple Park Avenue SE
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

Contract No. DP01076

Washington State Department of Transportation

Amendment No. 12

This is AMENDMENT No. 12 (**Amendment**) to that certain agreement entitled Fiber Optic Cabling *NO. DP01076*, dated July 11, 2005, between the Washington State Department of Transportation ("WSDOT") and the City of Tumwater ("**City**"), as amended by Amendment 2, dated May 29, 2007; Amendment 3, dated January 20, 2011; Amendment 4, dated January 25, 2008; Amendment 6, dated August 7, 2008; Amendment 7, dated April 8, 2008; Amendment 8, dated August 19, 2008, Amendment 9, dated June 19, 2008 and Amendment 10, dated January 25, 2011. Amendment 11, dated January 26, 2012 (Agreement)

RECITALS

A. WHEREAS, WSDOT and City are parties to the Contract, which provides for the installation and maintenance of fiber optic cabling.

B. WHEREAS, Pursuant to Section 7 "Optional Work" of the Contract, WSDOT and Vendor have negotiated to install, splice and terminate fiber optic cable at a new location.

C. WSDOT and City desire to amend the Contract to add the additional work and to add additional terms and conditions in the Contract.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained herein, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Pursuant to section 7, "**Optional Work**", WSDOT shall contract with INSI Inc to install one (1) each two (2) inch conduit under New Market St at Tumwater Blvd from existing vault to new 233 WSDOT pull box and provide City of Tumwater with one (1) each two (2) inch conduit and the vault will be city property in the city right of way per the attached map, labeled as **Attachment A**.
2. Pursuant to section 7, "**Optional Work**", WSDOT shall contract with INSI Inc to install one (1) each two (2) inch conduit under Israel Rd from existing vault at Linderson and Israel Rd to entrance of 1111 Israel Rd (Parks Facility) to vault to new 233 WSDOT pull box and provide City of Tumwater with one (1) each two (2) inch conduit and the vault will be city property in city right of way per the attached map (conduit and vault placement will be on the north side of Israel road not the south side - map to be updated prior to contract finalization), labeled as **Attachment A**.

3. Statement of Work

3.1. The City shall agree:

- 3.1.1. Provide access to WSDOT to have conduit placed under New Market at Tumwater Blvd and Israel Rd from Linderson to 1111 Israel Rd (Parks Facility) from existing vault to new WSDOT 233 vaults. City shall agree to waive all permit fees for this project. WSDOT will place fiber in separate 2 inch conduit and leave the City's conduit empty.

3.2. WSDOT shall agree:

- 3.2.1. WSDOT shall contract with INSI to install one (1) each two (2) inch conduit for WSDOT and provide City of Tumwater with one (1) two (2) inch conduit and 233 WSDOT pull box at each location. This project does not impact existing infrastructure.

4. Compensation

- 4.1. There will be no compensation in this agreement.

5. Effective Date. The effective date of this amendment shall be the date of last signature.

This contract is in effect until July 11, 2025.

6. Affect on Other Provisions.

- 6.1. All other provisions and exhibits of the Agreement remain in full force and effect and are not altered or affected in any way unless specifically modified herein.
- 6.2. The provisions of the Agreement, as modified by this Amendment, shall apply equally to any and all other provisions in the Agreement as though the modified provisions were original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto, having read this Amendment in its entirety, including all exhibits and attachments, do agree in each and every particular and intending to be legally bound have executed this Amendment.

City of Tumwater



Pete Kmet, Mayor

6/10/2013

Date

Washington State

Department of Transportation



Grant Rodeheaver, Director
Office of Information Technology

6/10/13

Date



Contract No. DP01076**Washington State Department of Transportation****Amendment No. 13**

This is AMENDMENT No. 13 (Amendment) to that certain agreement entitled Fiber Optic Cabling *NO. DP01076*, dated July 11, 2005, between the Washington State Department of Transportation ("WSDOT") and the City of Tumwater ("City"),

RECITALS

A. WHEREAS, WSDOT and City are parties to the Contract, which provides for the installation and maintenance of fiber optic cabling.

B. WHEREAS, Pursuant to Section 7 "Optional Work" of the Contract, WSDOT has negotiated with a vendor under separate contract to install, splice and terminate fiber optic cable at a new location.

C. WSDOT and City desire to amend the Contract to add the additional work and to add additional terms and conditions in the Contract.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained herein, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Pursuant to section 7, "Optional Work", WSDOT shall access the existing City of Tumwater vault along Tumwater Blvd at Timberland Library services facility and place conduit from vault along Terminal Way to WSDOT Aviation facility as shown on the attached map, labeled as Attachment 1.

2. Statement of Work

2.1 City shall agree:

2.1.1 City will allow WSDOT access to City Right of Way, city will provide WSDOT with a WSDOT standard plans Small cable vault (25-TA) to be placed near the City Lift station.

2.2 WSDOT shall agree:

2.2.1 WSDOT will allow City to place City owned fiber in the conduit at a later date in the span from the Tumwater Blvd vault to the WSDOT Aviation facility. The conduit must be used for government purposes only. WSDOT will install the small cable vault the City is providing. City will notify WSDOT Fourteen (14) days prior to installation of City fiber so that WSDOT is prepared for any disruption to service to existing WSDOT facilities. WDOT will terminate / splice said City fiber at the Tumwater Blvd vault and at the City lift station shown on Attachment 1, map.

4. Compensation

DP01076

1

Amendment 13

4.1 There will be no compensation in this amendment.

5. PERIOD OF PERFORMANCE

The period of performance for this amendment shall commence the last signature date. This contract is in effect until July 11, 2025.

6. Affect on Other Provisions.


6.1 All other provisions and exhibits of the Agreement remain in full force and effect and are not altered or affected in any way unless specifically modified herein.

6.2 The provisions of the Agreement, as modified by this Amendment, shall apply equally to any and all other provisions in the Agreement as though the modified provisions were original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto, having read this Amendment in its entirety, including all exhibits and attachments, do agree in each and every particular and intending to be legally bound have executed this Amendment.


OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT REMAIN IN FULL FORCE AND EFFECT.

Washington State
Department of Transportation


Grant Rodeheaver, Director
Information Technology Division

11/4/15
Date

City of Tumwater

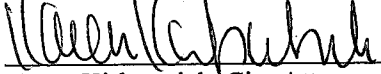

Pete Kmet, Mayor

11/6/15
Date

ATTEST:


Melody Valiant, City Clerk

APPROVE AS TO FORM:


Karen Kirkpatrick, City Attorney



WSDOT Conduit and Vault locations

**ATTACHMENT B - WSDOT FIBER
AMENDMENT NO. 16**

Contract No. DP01076

Washington State Department of Transportation

Amendment No. 16

This is AMENDMENT No. 16 (**Amendment**) to that certain agreement entitled Fiber Optic Cabling *NO. DP01076*, dated July 11, 2005, between the Washington State Department of Transportation (“WSDOT”) and the City of Tumwater (“City”).

RECITALS

A. WHEREAS, WSDOT and City are parties to the Contract, which provides for the installation and maintenance of fiber optic cabling.

B. WHEREAS, Pursuant to Section 7 “Optional Work” of the Contract, WSDOT and INSI, Inc. (Vendor) have negotiated to install, splice and terminate fiber optic cable at a new location.

C. WSDOT and City desire to amend the Contract to add the additional work and to add additional terms and conditions in the Contract.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained herein, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Pursuant to section 7, “Optional Work”, WSDOT contracted with INSI, Inc. on the implementation of fiber project K1630 (Israel Road Fiber Optic Project). This was for installation of 96/144f from vault on Capitol Way and Israel Rd, with splicings at City Hall, Fire Station, and Capitol Way vault in Tumwater, WA. City of Tumwater agreed to reimburse WSDOT for the work completed by INSI on WSDOT contract K1630. The purpose of this amendment 16 is for the reimbursement of the work performed under WSDOT Contract K1630, attached as **Attachment A** and Amendment 03 to WSDOT Contract K1630 with INSI, Inc., attached as **Attachment A-1**, herein incorporated by this reference.

2. Statement of Work

2.1. WSDOT shall agree:

WSDOT contracted with INSI, Inc for undergrounding fiber along Israel Road in Tumwater, WA. The work preformed by INSI under the original WSDOT Contract K1630 included:

- WSDOT fiber is to be pulled in by contractor, all labor work is to be performed by INSI contractor.

- Install 96/144 f from a vault on Capitol Way and Israel Rd.
- Fusion Splice the SM cable in a vault on Linderson Way.
- Splice the end at:
 - i) 96-strand at City Hall.
 - ii) 24-strand at the fire station
 - iii) 24-strand at Capitol way vault
- Label all the fiber optic cables with the fiber optic tags
- Map provided.

WSDOT issued Amendments 01 and Amendment 02, which were both time extensions only. Additional work was identified by City of Tumwater and WSDOT. Therefore, Amendment 03 to Contract K1630 with INSI, Inc. was issued. The work performed under Amendment 03 included:

- Remove approximately 2,800' of existing fiber and strand messenger wire from pole line on Israel Rd SW from Capitol Blvd SE to 11th Ave SW.
- Remove all hardware, down guys, and abandoned riser(s) from poles.
- Cap unused riser(s)
- Leave coils at splice case location in manhole on 11th Ave SW & Israel Rd SW so water will not seep into splice case.
- Disposal of removed materials.
- Traffic control according to the MUTCD and special provisions and as needed.
- City of Tumwater permit not required per WSDOT.

3. Compensation

- 3.1. The City, in consideration of the faithful performance of the Work performed by WSDOT, agrees to reimburse WSDOT for the direct and related indirect costs of the Work at the then current Indirect Cost Rate (ICR).
- 3.2. The City shall fully reimburse to WSDOT the amount of twenty-five thousand three hundred sixty dollars and forty-four cents (\$25,360.44), plus applicable taxes, for the Work pursuant to the original WSDOT Contract K1630, labeled as **Attachment A**, herein incorporated by this reference.
- 3.3. The City will also fully reimburse to WSDOT for all Work pursuant to Amendment 03 to WSDOT Contract K1630, in the amount of nine thousand two hundred sixty-one dollars and forty-seven cents (\$9,261.47) labeled as **Attachments A-1**, herein incorporated by this reference.
- 3.4. The total amount City of Tumwater is to reimburse WSDOT is thirty-four thousand six hundred twenty-one dollars and ninety-one cents (**\$34,621.91**).
- 3.5. Reimbursement must be made to WSDOT within 30 days of receipt of invoice.

4. Effective Date. The effective date of this amendment shall be the date of last signature. This contract is in effect until July 11, 2025.

5. Affect on Other Provisions.

5.1. All other provisions and exhibits of the Agreement remain in full force and effect and are not altered or affected in any way unless specifically modified herein.

5.2. The provisions of the Agreement, as modified by this Amendment, shall apply equally to any and all other provisions in the Agreement as though the modified provisions were original, but all of which together shall constitute one and the same instrument.

6. Counterparts.

This Amendment may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Amendment signed by each party, for all purposes.

7. Electronic Signatures

A signed copy of this contract or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this contract or such agreement amendments for all purposes.

IN WITNESS WHEREOF, the Parties hereto, having read this Amendment in its entirety, including all exhibits and attachments, do agree in each and every particular and intending to be legally bound have executed this Amendment.

City of Tumwater

**Washington State
Department of Transportation**

Matthew Modarelli, CIO & Director
Technology Services Division

Date

Date

TO: City Council
 FROM: Bill Lindauer, Engineering Services Manager
 DATE: September 3, 2024
 SUBJECT: 2023 Pavement Maintenance Project with Miles Construction – Increase Change Order Authority

1) Recommended Action:

Approve and authorize the increase in the change order authority provided to the Transportation and Engineering Director under Tumwater Municipal Code 2.14.060 from 10 percent to 20 percent for the 2023 Pavement Maintenance Project. This agreement was recommended for approval via consent calendar by the Public Works Committee at their August 22, 2024 meeting.

2) Background:

Staff developed the Transportation Benefit District (TBD) funded 2023 Pavement Maintenance project to meet the needs of the pavement preservation program, proposed 10-year TBD segments and the priorities map utilized when approaching citizens regarding formation of the TBD. This project included a blend of arterials, collectors, and local residential streets. The project focused on pavement rehabilitation and overlays, but also included curb ramp replacement, crack sealing, and citywide pavement markings.

The City Council awarded the project to Miles Construction at their official bid of \$3,857,857. Per Tumwater Municipal Code (TMC) 2.14.060, Public works – Change order authority, *“The director of public works or the department director of the project department is authorized to approve any contract change order, provided the total construction costs with the change order do not exceed the contract bid amount by more than ten percent.”*

Staff requests this increase in the change order authority provided to the Transportation and Engineering Director in the Municipal Code from 10% of the contract bid amount to 20% of the contract amount to address pavement repairs on Crosby Boulevard from Somerset Hill Drive to Fortner Drive and Israel Road from the I-5 bridge overpass to Linderson Way. This increase allows efficient use of Transportation Benefit (TBD) funds by taking advantage of bid prices and completing needed repairs.

Additional pavement repairs are needed due to stormwater damage and deterioration of pavement. Completing these needed repairs will avoid ongoing maintenance costs, reduce the likelihood of additional damage to the roadway in the future, and enhance safety.

3) Policy Support:

Strategic Priorities and Goals 2021-2026:

Create and Maintain a Transportation System Safe for All Modes of Travel – Complete roadway maintenance to enhance vehicle, bicycle, and pedestrian safety.

4) Alternatives:

☐ Do not approve the increase in change order authority, thereby stopping pavement

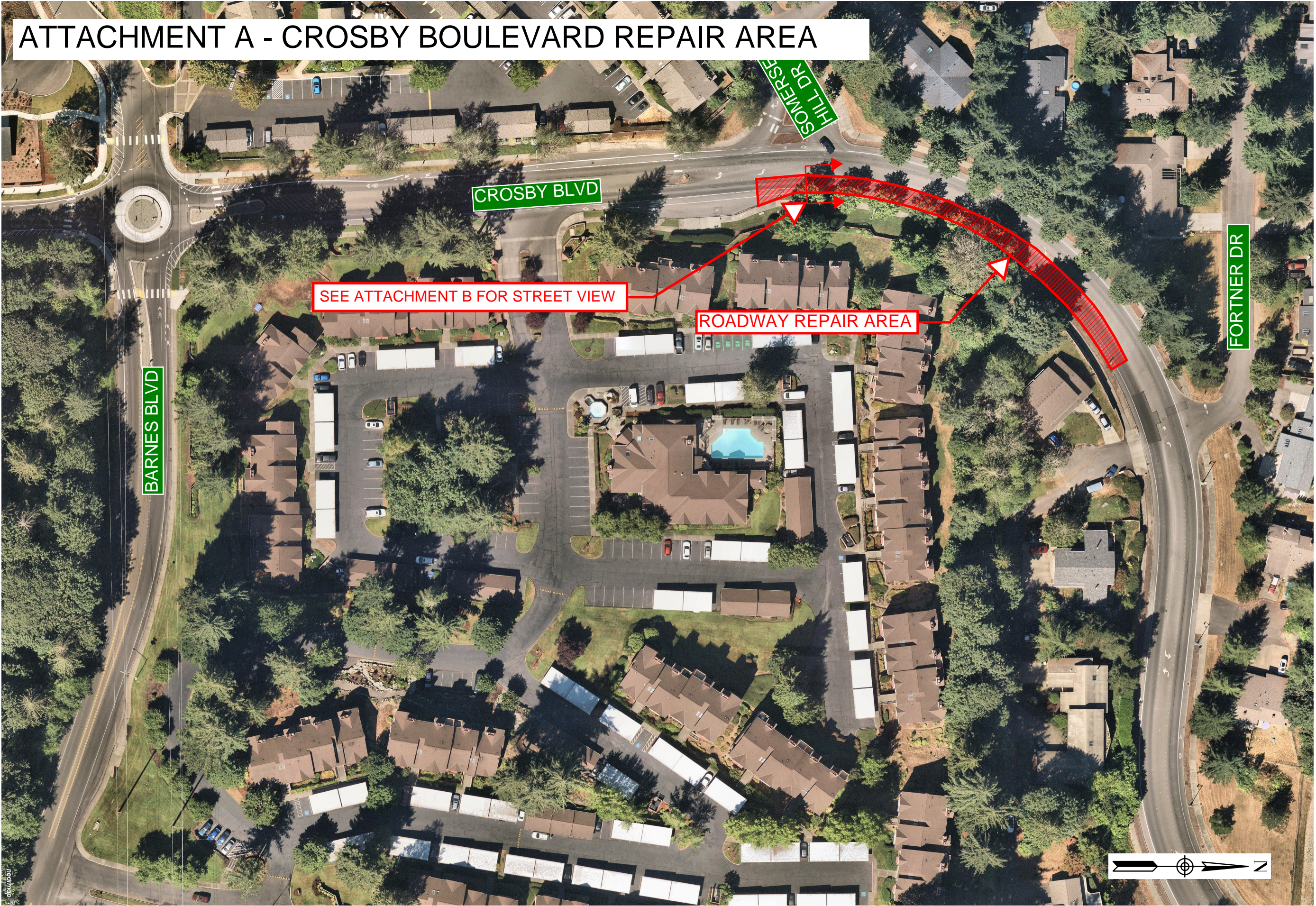
work on Israel Road (I-5 Bridge Overpass to Linderson Way).

5) Fiscal Notes:

The 2023 Pavement Maintenance Project is funded by the TBD.

6) Attachments:

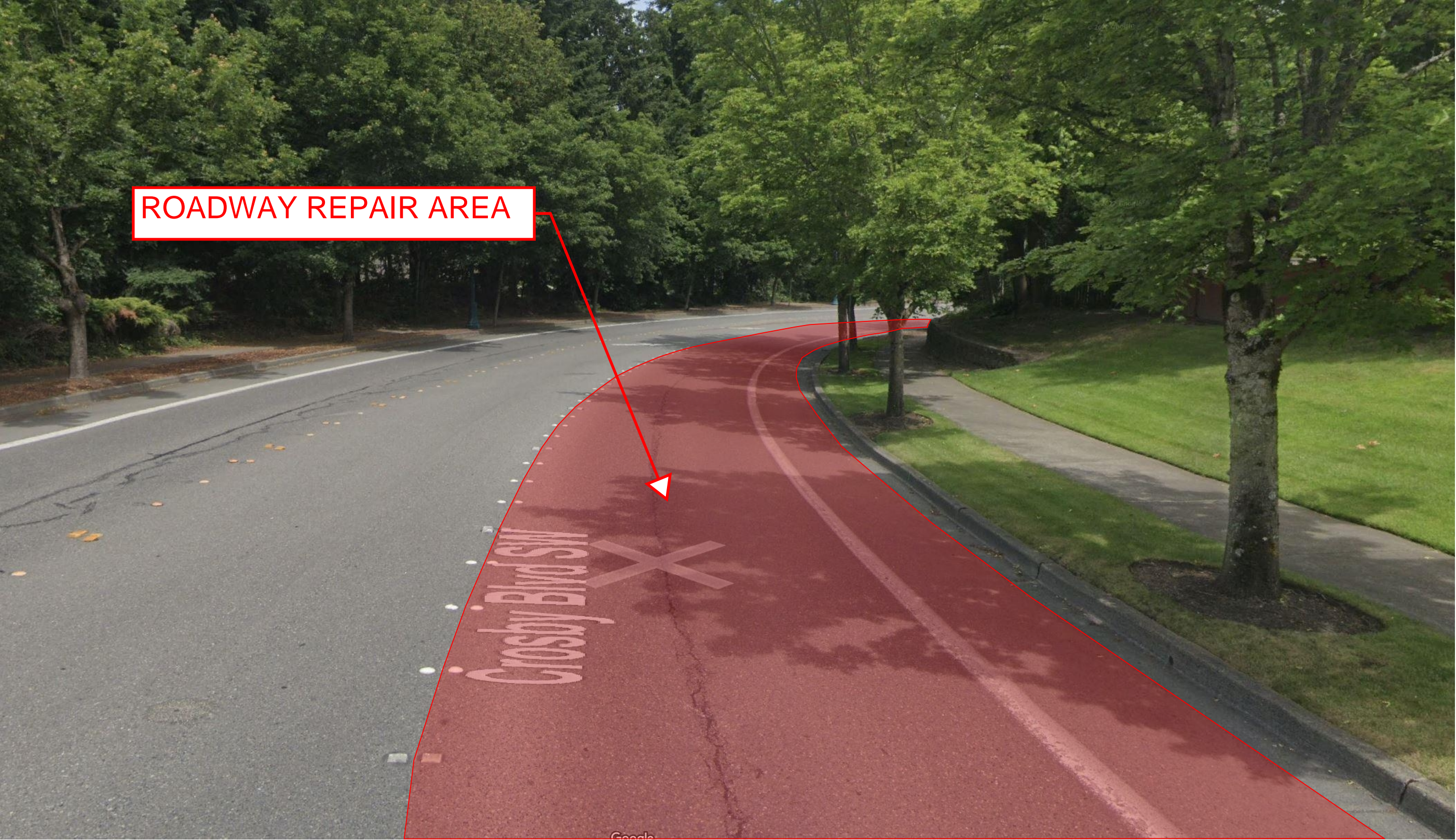
- A. Crosby Boulevard Repair Area
- B. Crosby Boulevard Street View
- C. Israel Paving



ATTACHMENT A - CROSBY BOULEVARD REPAIR AREA

PROJECT	2023 PAVEMENT MAINTENANCE	DESIGNED BY:	
JOB :		DRAWN BY:	
DATE:		CHECKED BY:	
INDEX:		APPROVED BY:	
SHEET:	OF	SCALE:	H V
CROSBY BLVD SW OVERVIEW		ATTACHMENT A	
CITY OF TUMWATER TRANSPORTATION AND ENGINEERING DEPARTMENT 555 ISRAEL ROAD SW, TUMWATER, WA 98501 Phone: (360) 754-4140			

ATTACHMENT B - CROSBY BOULEVARD STREET VIEW



CROSBY BOULEVARD LOOKING NORTH FROM SOMERSET HILL DRIVE

DESIGNED BY: _____ DRAWN BY: _____ CHECKED BY: _____ APPROVED BY: _____ SCALE: H _____ V _____	ATTACHMENT B	CITY OF TUMWATER TRANSPORTATION AND ENGINEERING DEPARTMENT 555 ISRAEL ROAD SW, TUMWATER, WA 98501 Phone: (360) 754-4140	REVISIONS: _____ DATE: _____	PROJECT 2023 PAVEMENT MAINTENANCE CROSBY BLVD SW LOOKING NORTH FROM SOMERSET HILL DRIVE	JOB : _____ DATE: _____ INDEX: _____ SHEET: _____ OF _____
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ATTACHMENT C - ISRAEL PAVING



ISRAEL ROAD ADDITIONAL ASPHALT GRIND AND OVERLAY LIMITS

DESIGNED BY: _____
DRAWN BY: _____
CHECKED BY: _____
APPROVED BY: _____
SCALE: H V

ATTACHMENT C

CITY OF TUMWATER
TRANSPORTATION AND
ENGINEERING DEPARTMENT
555 ISRAEL ROAD SW, TUMWATER, WA 98501
Phone: (360) 754-4140

REVISIONS:

DATE:

PROJECT 2023 PAVEMENT MAINTENANCE

ISRAEL ROAD ASPHALT GRIND AND OVERLAY LIMITS

JOB : _____
DATE: _____
INDEX: _____
SHEET: _____ OF _____

TO: City Council
FROM: Troy Niemeyer, Finance Director
DATE: September 3, 2024
SUBJECT: Audit Engagement Letter

1) Recommended Action:

Authorize the Mayor to sign the audit engagement letter with the State Auditor's Office for the audit of fiscal year 2023. This letter was recommended for approval on the consent calendar by the Budget & Finance Committee at their August 21, 2024 meeting.

2) Background:

The State Auditor's Office (SAO) has started its audit of the City for fiscal year 2023 which includes an audit of the financial statements, a federal compliance audit, and an accountability audit. SAO has requested we sign the attached audit engagement letter.

3) Policy Support:

Be fiscally responsible and develop sustainable financial strategies.

4) Alternatives:

- ☐ Do not approve the Mayor to sign the letter. However, the audit is required by state and federal law.
-

5) Fiscal Notes:

The audit is estimated to cost \$80,000 but could be more or less, depending on the amount of work they need to do.

6) Attachments:

- A. Audit Engagement Letter



**Office of the Washington State Auditor
Pat McCarthy**

August 2, 2024

City Council and Mayor
City of Tumwater
555 Israel Rd SW
Tumwater, WA 98512

We are pleased to confirm the audits to be performed by the Office of the Washington State Auditor, in accordance with the provisions of Chapter 43.09 RCW, for the City of Tumwater. This letter confirms the nature and limitations of the audits, as well as responsibilities of the parties and other engagement terms.

Office of the Washington State Auditor Responsibilities

Financial Statement Audit

We will perform an audit of the basic financial statements of the City of Tumwater as of and for the fiscal year ended December 31, 2023, prepared in accordance with accounting principles generally accepted in the United States of America (GAAP). The objective of our audit will be to express our opinion on these financial statements.

We will perform our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free from material misstatement. Since we do not review every transaction, our audit cannot be relied upon to identify every potential misstatement. Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk exists that some material misstatements may not be detected, even though the audit is properly planned and performed in accordance with the standards identified above.

A financial statement audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers relevant internal controls in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control. Accordingly, we will express no such opinion.

Although our audit is not designed to provide an opinion on the effectiveness of internal control over financial reporting, we are required to report any identified significant deficiencies and material

weaknesses in controls. We are also required to report instances of fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements that could have a direct and material effect on the accuracy of financial statements.

A financial statement audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

All misstatements identified by the audit will be discussed with management. Material misstatements corrected by management and all uncorrected misstatements will be communicated at the exit conference, as required by professional auditing standards.

Our responsibility is to express in a written report an opinion on the financial statements based on the results of our audit. We cannot guarantee an unmodified opinion. We may modify or disclaim an opinion on the financial statements if we are unable to complete the audit or obtain sufficient and appropriate audit evidence supporting the financial statements. If our opinion is other than unmodified, we will fully discuss the reason with you prior to issuing our report. Further, in accordance with professional standards, we may add emphasis-of-matter or other-matter paragraphs to our report to describe information that, in our judgment, is relevant to understanding the financial statements or our audit.

We will also issue a written report (that does not include an opinion) on issues identified during the audit related to internal control over financial reporting and on compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*.

The City prepares supplementary information that accompanies the financial statements, which is required by Generally Accepted Accounting Principles. We agree to perform auditing procedures on this information, with the objective of expressing an opinion as to whether it is fairly stated, in all material respects, in relation to the financial statements taken as a whole.>

Federal Single Audit

We will also perform a federal single audit on compliance with, and report on internal control over compliance for, each major program for the fiscal year ended December 31, 2023, in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Title 2 *U.S. Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk exists that some material noncompliance may not be detected, even though the audit is properly planned and performed in accordance with these standards and the Uniform Guidance.

In planning and performing the compliance audit, we will consider internal control over compliance in order to determine the appropriate auditing procedures necessary for opining on compliance with

each major program, and for testing and reporting on internal control over compliance in accordance with Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we will express no such opinion. Although our audit is not designed to provide an opinion on the effectiveness of internal control over compliance, we are required to report any identified significant deficiencies and material weaknesses in controls.

We will express an opinion as to whether the Schedule of Expenditures of Federal Awards is fairly stated, in all material respects, in relation to the financial statements taken as a whole for the fiscal year ended December 31, 2023.

We estimate the federal single audit will cover one federal grant programs, which will be identified at the audit entrance conference. If additional grant programs are audited to satisfy the requirements of the Uniform Guidance, the audit budget discussed below will increase by approximately \$8,400 per additional major program.

Upon completion of our audit we will issue a written report containing our opinion on compliance for each major program and a written report on internal control over compliance. We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion, issue a disclaimer of opinion, or add an emphasis-of-matter or other-matter paragraph(s) to the report.

Accountability Audit

We will perform an accountability audit of compliance with applicable state laws, regulations, and policies, and of controls over the safeguarding of public resources for the fiscal year ended December 31, 2023. The audit will be conducted in accordance with provisions of RCW 43.09.260 and the Office's audit policies, which include policies specific to these types of audits and general audit policies. Our general audit policies apply to all our engagements and incorporate the requirements of *Government Auditing Standards*, as applicable, on topics such as communications with auditees, independence, audit evidence and documentation, and reporting.

An accountability audit involves performing procedures to obtain audit evidence about compliance and controls in areas selected for audit. In keeping with general auditing practices, we do not examine every transaction, activity, policy, internal control, or area. The areas examined and procedures selected depend on the auditor's judgment, including the assessment of the risks of fraud, loss, abuse, or noncompliance.

Upon completion of our audit, we will issue a written report describing the overall results and conclusions for the areas we examined.

Data Security

Our Office is committed to appropriately safeguarding the information we obtain during the course of the audit. We have entered into a data sharing agreement with the City to ensure compliance with legal requirements and Executive Directives (Executive Order 16-01, RCW 42.56 and OCIO Standard 141.10) in the handling of information considered confidential.

Reporting levels for audit issues

Issues identified through the auditing process will be communicated as follows. Failure to appropriately address audit issues may result in escalated reporting levels.

- **Findings** formally address issues in an audit report. Findings report significant results of the audit, such as significant deficiencies and material weaknesses in internal controls;

misappropriation; and material abuse or non-compliance with laws, regulations, contracts or grant agreements. You will be given the opportunity to respond to a finding, and this response, or a synopsis of it, will be published in the audit report. Professional auditing standards define the issues we must report as findings with regard to non-compliance with a financial statement effect and internal controls over financial reporting. The Uniform Guidance defines the issues we must report as findings with regard to non-compliance and internal controls over compliance with federal grants.

- **Management letters** communicate control deficiencies, non-compliance, misappropriation, abuse, or errors with a less-than-material effect on audit objectives. Management letters are referenced, but not included, in the audit report.
- **Exit items** address control deficiencies, non-compliance, abuse, or errors that have an insignificant effect on audit objectives. These issues are informally communicated to management and are not referenced in the audit report.

Client's Responsibilities

Management is responsible for the accuracy and completeness of information provided to the auditor and will provide the Office of the Washington State Auditor with:

- Unrestricted access to people with whom the auditor wishes to speak.
- All information that is requested or relevant to auditor requests.
- Notification when any documents, records, files, or data contain information that is covered by confidentiality or privacy laws.
- Adequate workspace and conditions, including interacting with auditors professionally and respectfully and promptly communicating about any issues and concerns.

Moreover, our audit does not relieve management or the governing body of their responsibilities. Management's responsibilities, with oversight from the governing body, include:

- Selecting and applying appropriate administrative and accounting policies.
- Establishing and maintaining effective internal controls over financial reporting, compliance, and safeguarding of public resources.
- Designing and following effective controls to prevent and detect fraud, theft, and loss.
- Promptly reporting to us knowledge of any fraud, allegations of fraud or suspected fraud involving management, employees or others, in accordance with RCW 43.09.185.
- Ensuring compliance with laws, regulations and provisions of contracts and grant agreements.
- Preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America (GAAP).
- Preparing the following supplementary information:
 - Schedule of Expenditures of Federal Awards (including notes and noncash assistance received) that includes all expenditures from federal agencies and pass-through agencies in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance in accordance with Uniform Guidance 2 CFR § 200.510 requirements
- Including the auditor's report on the supplementary information in any document that both contains the supplementary information and indicates that the auditor reported on the supplementary information.
- Either presenting the supplementary information with the audited financial statements or, if the supplementary information will not be presented, making the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information and auditor's report thereon are issued.
- Identifying all federal awards received.

- Understanding and complying with the provisions of laws, regulations, contracts, and grant agreements, including applicable program compliance requirements.
- Establishing and maintaining internal control over compliance, including establishing and maintaining effective controls that provide reasonable assurance that the City administers government programs in compliance with the compliance requirements.
- Evaluating and monitoring compliance with federal award requirements.
- Informing us of the City’s relationships with significant vendors who are responsible for program compliance
- Submitting the reporting package and data collection form through the Federal Audit Clearinghouse.

Responsibilities at the conclusion of the audit

At the conclusion of our audit, the City will provide us with a letter to confirm in writing certain express and implied representations made during the course of the audit. This letter includes representations regarding legal matters. A separate letter may be needed from the City’s legal counsel.

Management and the governing body are also responsible for following up and taking corrective action on all audit findings, including, when applicable, preparing a summary schedule of prior audit findings and a corrective action plan on the City’s own letterhead.

Estimated Audit Costs and Timeline

We estimate the cost of the audit work to be \$80,000, other expenses, if any. Invoices for these services will be prepared and presented each month as our audit work progresses.

We anticipate our reports will be published on our website www.sao.wa.gov and be available to you and the public as outlined below. These estimates are based on timely access to financial information and no significant audit reporting issues. The estimated cost and completion date may change if unforeseen issues arise or if significant audit issues are identified necessitating additional audit work. We will promptly notify you if this is the case.

Report	Date*
Independent Auditor’s Report on Financial Statements	September 2024
Independent Auditor’s Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i>	September 2024
Independent Auditor’s Report on Compliance for Each Major Program and on Internal Control over Compliance in Accordance with Uniform Guidance	September 2024
Independent Auditor’s Report on Accountability	September 2024

**Report Issuance Dates Are Estimates Only*

The audit documentation for this engagement, which may contain confidential or sensitive information, is the property of SAO and constitutes a public record under Chapter 42.56 RCW. Subject to applicable laws and regulations, appropriate individuals, as well as audit documentation, will be made available upon request and in a timely manner to appropriate auditors and reviewers, City’s management and governing body, and federal agencies, for purposes of a public records request, a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities.

The audit documentation for this engagement will be retained for a minimum of five years after the report release (publish) date in accordance with the public records retention schedule established by the Washington Secretary of State.

Expected Communications

During the course of the audit, we will communicate with the City's selected audit liaison, Shelly Carter, Assistant Finance Director, on the audit status, any significant changes in our planned audit scope or schedule and preliminary results or recommendations as they are developed. The audit liaison is responsible for regularly updating management and the governing body on these matters. We may also provide direct communication of these matters to management and the governing body as needed or upon request.

Please contact us if any events or concerns come to your attention of which we should be aware. We will expect the audit liaison to keep us informed of any such matters.

Audit Dispute Process

Please contact the Audit Manager or Assistant Director to discuss any unresolved disagreements or concerns you have during the performance of our audit. At the conclusion of the audit, we will summarize the results at the exit conference. We will also discuss any significant difficulties or disagreements encountered during the audit and their resolution.

By signing and returning this letter, you acknowledge that the foregoing is in accordance with your understanding. Please contact us with any questions.

We appreciate the opportunity to be of service to you and look forward to working with you and your staff.

Sincerely,



8/2/24

Lisa Carrell, CPA, Program Manager *Date*
Office of the Washington State Auditor

City Response:

This letter correctly sets forth our understanding.

Debbie Sullivan, Mayor

Date

Troy Niemeyer, Finance Director

Date

TO: City Council
 FROM: Lisa Parks, City Administrator
 DATE: September 3, 2024
 SUBJECT: Executive Department FTE Adjustments and New Position: Economic Development Coordinator.

1) Recommended Action:

Establish a new position titled Economic Development Coordinator with a 2024 salary range of \$6,049 to \$7,368 (Grade 54), and confirm the departmental FTE count for the Executive Department is seven (7).

This action was recommended for approval by the Budget and Finance Committee at their meeting on August 21, 2024, with the direction that it be placed on the council consideration agenda at the September 3, 2024 Council meeting.

2) Background:

The City has had trouble filling the position of Economic Development Program Manager since Austin Ramirez left earlier in the year. When he left, Austin proposed a series of adjustments be made to better reflect the actual working conditions of this position, including the type of work being done and the most effective reporting structure. Specifically, there were adjustments made to the class specification (job description), and the position was moved from the Community Development Department to the Executive Department, as a direct report to the City Administrator. Austin also recommended an additional position be created to help advance the brownfield redevelopment initiatives that have recently emerged as economic development strategies, and to address the associated workload, including managing the Federal and State grants the City has received, as well as managing and coordinating the consultant team and stakeholder collaboration involved in these projects.

Despite a robust recruitment process, including finding two potential candidates who were offered the position and declined it, the City has been unable to fill the Economic Development Program Manager position. To ensure the important economic development functions of the City can progress, staff is proposing a new approach to implement many of Austin's recommendations, and to broaden both the appeal for the work and the pool of applicants from which the City can choose to complete the work. The new approach includes two basic components:

1. Fill the existing Assistant City Administrator position after adjusting the class specification to include oversight and management of the City's economic development programs, among its other duties; and,
2. Create a new Economic Development Coordinator position to support the Assistant City Administrator, with a specific emphasis/focus on brownfield redevelopment. It is proposed to be created at a level below that of the Economic Development Program Manager, consistent with other coordinator positions in the City, such as the Sustainability Coordinator.

The second component requires Council action to create the new position and approve a salary range. Council action is also being requested to affirm/confirm the number of FTE's within the Executive Department to be a total of 7, which is inclusive of both positions.

Neither of these two components require a budget adjustment because there are available savings in the currently approved budget to adequately cover the costs of these positions.

Austin was instrumental in kick-starting a proactive economic development program within the City, including his success in obtaining both the EPA Brownfield Community-Wide Assessment Grant (\$500,000) and the Washington Department of Ecology Integrated Planning Grant (\$200,000). Since Austin's departure, grant agreements have been executed, a consultant team has been hired, and the amount of work associated with the City's economic development initiatives has increased, exponentially. Currently, the new work associated with these grants is being undertaken primarily by the Community Development Director and, to a lesser extent, by the City Administrator. Neither of these positions have available capacity to sustain/advance the overall economic development initiatives the Economic Development Program Manager was overseeing, nor are they able to manage the significant additional workload associated with the brownfield redevelopment activities related to the two grants. The proposed new approach is integral to the successful implementation of the City's Strategic Priorities and Goals related to community and economic development.

3) Policy Support:

Strategic Priorities and Goals 2025-26: Pursue and Support Targeted Community and Economic Development Opportunities.

4) Alternatives:

☐ Do not recommend

5) Fiscal Notes:

Based on savings realized throughout the current biennial budget – including salary savings from various unfilled positions, including the Economic Development Program Manager – there are available financial resources to cover this approach for the remainder of calendar year 2024. Additionally, these positions are included in the Mayor's Preliminary Budget for the 2025-2026 Biennium that is currently being developed.

6) Attachments:

A. None