



White Salmon City Council Meeting

A G E N D A

May 17, 2023 – 6:00 PM

119 NE Church

Meeting ID: 824 0093 7878

Call in Numbers:

669-900-6833

929-205-6099

301-715-8592

346-248-7799

253-215-8782

312-626-6799

Zoom Link: <https://us02web.zoom.us/j/82400937878>

- I. **Call to Order, Presentation of the Flag and Roll Call**
- II. **Changes to the Agenda**
- III. **Public Comment** Any public in attendance at the meeting (either in person or via Zoom) will be provided an opportunity to make public comment of a general nature in the time allotted. No registration is required. Each person will be allowed three minutes for comment.
- IV. **Consent Agenda**
 - A. Reimbursement Request No.1 Main Line Replacement Phase 1 - NCE, Inc (\$205,881.45)
 - B. Resolution 2023-05-564 Declaring Surplus Property
 - C. April 2023 Budget Report - *Will Be Provided on May 15, 2023*
 - D. Approval of Meeting Minutes - April 5, 2023 - *Will Be Provided on May 16, 2023*
 - E. Approval of Joint Special Meeting Minutes KCFD3 - April 19, 2023 - *Will Be Provided on May 16, 2023*
 - F. Approval of Meeting Minutes - April 19, 2023 - *Will Be Provided on May 16, 2023*
 - G. Approval of Meeting Minutes for April 26, 2023 Special Joint Council Meeting -WKRFA- *Will Be Provided on May 16, 2023*
 - H. Approval of Meeting Minutes for May 1, 2023 Special Joint Council Meeting -WKRFA- *Will Be Provided on May 16, 2023*
 - I. Approval of Meeting Minutes - May 3, 2023- *Will Be Provided on May 16, 2023*
 - J. Approval of Meeting Minutes for May 8, 2023 Special Joint Council Meeting -WKFRFA- *Will Be Provided on May 16, 2023*
 - K. Approval of Meeting Minutes for May 10, 2023 Special Joint Council Meeting - KCFD3- *Will Be Provided on May 16, 2023*
 - L. Approval of Vouchers
- V. **Presentations - Heritage Month Speaker**
 - A. Asian American Heritage Month and Jewish American Heritage Month
Speaker Janet Hamada-Executive Director of The Next Door
- VI. **Business Items**
 - A. Resolution 2023-05-563 Authorizing the Four Oaks Development Agreement with Main Street LLC
 1. Continuation of Public Hearing opened on May 3, 2023
 2. Discussion
 3. Action
 - B. Resolution 2023-05-565 Authorizing the Acquisition of Real Property from Main Street White Salmon, LLC
 1. Presentation and Discussion
 2. Action
 - C. Public Hearing - Ordinance 2023-05-1141 Creating WSMC 5.10 Tenant Protections
 1. Presentation
 2. Public Hearing
 3. Discussion
 - D. Ordinance 2023-05-1142 Amending WSMC 13.16.096 Amending the Low-Income Utility Discount Program
 1. Presentation and Discussion
 2. Action
- VII. **Reports and Communications**
 - A. Department Heads
 - B. Council Members
 - C. Mayor
- VIII. **Executive Session (if needed)**
- IX. **Adjournment**

File Attachments for Item:

A. Reimbursement Request No.1 Main Line Replacement Phase 1 - NCE, Inc (\$205,881.45)



Department Head:	<u>SMP</u>
Clerk/Treasurer:	<u>SMP</u>
City Administrator:	<u>TR</u>
Mayor:	<u>MK</u>

COUNCIL REPORT

Business Item

Consent Agenda

Needs Legal Review:

No, unnecessary

Meeting Date:

May 17, 2023

Agenda Item:

Reimbursement Request No.1 – Transmission Mainline
Phase 1 – NCE, Inc (\$205,881.45)

Presented By:

Stephanie Porter, Clerk Treasurer

Action Required:

Authorization for presented Transmission Mainline Phase 1 Project Reimbursement Request No. 1 including a first draw on the Interim Financing Loan in the amount not to exceed \$205,881.45.

Motion for Business Item / Proposed Motion for Consent Agenda:

Motion to approve the Transmission Main line Phase 1 Reimbursement Request No.1 to North Cascade Excavation in the amount not to exceed \$205,381.45 including a draw from the City of White Salmon’s Cashmere Valley Bank Interim Financing Loan in the amount not to exceed \$55,382.

Explanation of Issue:

North Cascade Excavation has submitted a reimbursement request for Transmission Mainline Phase 1 Project in the amount not to exceed \$205,881.45. The reimbursement has been vetted and adjusted for accuracy by Dave Jepsen of Anderson Perry & Associates. He has recommended reimbursement.

Council Options:

City Council has the following options available at this time:

1. Accept the Staff Recommendation.
2. Revise the Staff Recommendation.
3. Refer this issue back to staff for additional work.
4. Take No Action
5. Other action as desired by council.

Fiscal Analysis:

This reimbursement will be paid by the \$150,500 city match and a draw on the Interim Financing in the amount of \$55,382 with council approval.

Recommendation of Staff/Committee:

Staff recommends approving the Reimbursement Request.

LETTER OF TRANSMITTAL

TO: City of White Salmon
ATTN: Stephanie Porter, City Clerk/Treasurer
 P.O. Box 2139
 White Salmon, Washington 98672

DATE: May 11, 2023
JOB NO.: 250-11
RE: Transmission Main Replacement Phase 1

WE ARE SENDING YOU:

COPIES	DESCRIPTION
1	Application for Payment 01

THESE ARE TRANSMITTED AS CHECKED:

- | | | |
|--|---|--------------------------------|
| <input type="checkbox"/> As requested | <input type="checkbox"/> For review and comment | <input type="checkbox"/> _____ |
| <input type="checkbox"/> For your use | <input type="checkbox"/> For your files | |
| <input checked="" type="checkbox"/> For approval | <input type="checkbox"/> For Bids Due _____ | |

REMARKS

Stephanie:

Application for Payment No. 1 includes preconstruction documentation, materials submittals, weekly virtual meetings with the Contractors, Engineer, and Owner, acquisition of materials for and work on the casing installation for the Buck Creek water main crossing (work performed at Contractor’s shop), and site visit by Contractor to review site conditions (April 24, 2023). Approved payment items for mobilization/demobilization (which includes requirements such as bonds and insurance, construction stormwater documentation, etc.), construction facilities and temporary controls (cost for project sign), and work performed on the creek crossing casing. Anderson Perry staff visited the Contractor’s shop in Woodland, WA to review the casing work and materials on-hand and were satisfied with the progress of work and requested payment amount.

Engineering services provided for the Application for Payment No. 1 period included review of Contractor materials submittals and AIS certification review for materials on hand, weekly virtual meetings with the Contractor (scheduled every Tuesday at 2:00 pm), construction survey of the water main alignment for first part of the proposed water main work and for the conduit installation near the Buck Creek WTP, and site visit with the Contractor to review site conditions (April 24, 2023).

Please contact me if you have any questions or comments on this invoice or the project itself.

cc: File No. 250-11-069, w/encl.

Signed: **Jay Peninger**
Digitally signed by Jay Peninger
 DN: cn=J.S. E=peninger@andersonperry.com,
 o=Anderson Perry & Associates, CN=Jay Peninger
 Date: 2023.05.11 13:48:47-0700
 Jay Peninger

La Grande, OR • Walla Walla, WA • Redmond, OR • Hermiston, OR

[https://andersonperry.sharepoint.com/sites/WhiteSalmonWA/Projects/250-11 Transmission Main Replacement/Phase I/069 App for Pay/01/LOT-Pay App 01_Transmission Main_05-11-2023.docx](https://andersonperry.sharepoint.com/sites/WhiteSalmonWA/Projects/250-11%20Transmission%20Main%20Replacement/Phase%20I/069%20App%20for%20Pay/01/LOT-Pay%20App%2001_Transmission%20Main_05-11-2023.docx)

**APPLICATION FOR PAYMENT NO. 1
CITY OF WHITE SALMON, WASHINGTON
TRANSMISSION MAIN REPLACEMENT PHASE I**

TO City of White Salmon, Washington (OWNER)

FROM North Cascade Excavating, LLC (CONTRACTOR)

For Work accomplished through the date of: May 8, 2023

1.	Original Contract Price	\$	3,607,259.26
2.	Net Change by Change Orders and Written Amendments (+/-)	\$	-
3.	Current Contract Price (1 plus 2)	\$	3,607,259.26
4.	Total Work Completed and Materials On Hand to Date*	\$	201,597.50
5.	Retainage:	\$	(10,079.88)
8.	Sales Tax: Sales Tax @ 7.5% (Less Retainage)	\$	14,363.82
9.	Liquidated Damages	(\$	-
10.	Less Previous Application for Payments	\$	-
11.	DUE THIS APPLICATION (4 minus 5, plus 6, plus 7, plus 8, minus 9 and 10)	\$	205,881.45

* Line 4 may not match Line 3 on final Application for Payment due to bid versus constructed quantity differences on unit price work.

Accompanying Documentation:

Contractor's Certification:

The undersigned Contractor certifies that (1) all previous progress payments received from Owner, if any, on account of Work done under the Contract referred to above have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Application; (2) title of all Work, materials, and equipment incorporated in said Work or otherwise listed in, or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests, and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Lien, security interest, or encumbrance); (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and not defective; and (4) Record Drawings and required job photos are up-to-date, accurate, and complete for Work performed.

Dated 5/11/2023

North Cascade Excavating, LLC
CONTRACTOR

By: 
SAM DUGUAY
Anderson Perry & Associates, Inc.

Payment of the above AMOUNT DUE THIS APPLICATION is recommended

Dated _____

ENGINEER
By: Jay Peninger
Digitally signed by Jay Peninger
DN: C=US, E=jpeninger@andersonperry.com,
O=Anderson Perry & Associates, CN=Jay Peninger
Date: 2023.05.11 07:51:35-0700

APPROVED by Owner:

City of White Salmon, Washington
OWNER

Dated _____

By: _____

Title: _____

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Date: May 11, 2023

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FROM: North Cascade Excavating, LLC		
TO: City of White Salmon, Washington		
Date of Completion	Contract Amount	Date of Estimate
Original: July 11, 2023	Original Amount of Contract: \$ 3,607,259.26	From: March 27, 2023
Revised:	Change Orders: (+ or -)	To: May 8, 2023
On Schedule: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Current Contract Amount \$ 3,607,259.26	

Item No.	CONTRACT ITEMS Description	BID PRICES			PREVIOUS		THIS PERIOD		TOTAL TO DATE	
		Qty.	Unit	Unit Price	Qty.	Amount	Qty.	Amount	Qty.	Amount
Bid Option A - Ductile Iron Pipe										
1	Mobilization/Demobilization	All Req'd	LS	\$250,000.00	0%	\$0.00	50%	\$125,000.00	50%	\$125,000.00
2	Construction Facilities and Temporary Controls	All Req'd	LS	\$75,000.00	0%	\$0.00	10%	\$7,500.00	10%	\$7,500.00
3	Removal and Replacement of Foundation Material	100	CY	\$40.00	0	\$0.00	0	\$0.00	0	\$0.00
4	Common Borrow	3,200	CY	\$12.00	0	\$0.00	0	\$0.00	0	\$0.00
5	Rock Excavation	1,600	CY	\$100.00	0	\$0.00	0	\$0.00	0	\$0.00
6	Additional Boulder Removal(6-In. Diam. to 1/2 of a Cubic Yard)	1,100	CY	\$25.00	0	\$0.00	0	\$0.00	0	\$0.00
7	Potholing All Connections and Known Utility Crossings	All Req'd	LS	\$8,500.00	0%	\$0.00	0	\$0.00	0	\$0.00
8	Water Main Creek Crossing	All Req'd	LS	\$151,250.00	0%	\$0.00	45%	\$68,062.50	45%	\$68,062.50
9	16-In. Ductile Iron Water Line, Class 250	6,130	LF	\$132.00	0	\$0.00	0	\$0.00	0	\$0.00
10	16-In. Ductile Iron Water Line, Class 350	6,070	LF	\$142.00	0	\$0.00	0	\$0.00	0	\$0.00
11	16-In. Restrained Ductile Iron Water Line, Class 250	300	LF	\$147.00	0	\$0.00	0	\$0.00	0	\$0.00
12	12-In. Gate Valve 250 psi	2	EA	\$4,200.00	0	\$0.00	0	\$0.00	0	\$0.00
13	16-In. Butterfly Valve 250 psi	13	EA	\$7,500.00	0	\$0.00	0	\$0.00	0	\$0.00
14	Connection to Existing 12-In. Water Line	2	EA	\$6,000.00	0	\$0.00	0	\$0.00	0	\$0.00
15	Connection to Existing 16-In. Water Line	2	EA	\$20,000.00	0	\$0.00	0	\$0.00	0	\$0.00
16	3-In. Combination Air and Vacuum Valve and Vault	6	EA	\$26,100.00	0	\$0.00	0	\$0.00	0	\$0.00
17	4-In. Combination Air and Vacuum Valve and Vault	1	EA	\$31,000.00	0	\$0.00	0	\$0.00	0	\$0.00
18	2 1/2-In. Flush Mount Blowoff Hydrant and Auxiliary Valve	4	EA	\$4,800.00	0	\$0.00	0	\$0.00	0	\$0.00
19	Additional Work at Culvert Crossing (1.5-Ft. Separation)	5	EA	\$925.00	0	\$0.00	0	\$0.00	0	\$0.00
20	Additional Work at Culvert Crossing (3-Ft. Separation)	22	EA	\$1,200.00	0	\$0.00	0	\$0.00	0	\$0.00
21	Locate Wire Access Box	14	EA	\$600.00	0	\$0.00	0	\$0.00	0	\$0.00
22	Utility Marker Post	40	EA	\$110.00	0	\$0.00	0	\$0.00	0	\$0.00
23	Trench Excavation Safety System	All Req'd	LS	\$12,000.00	0%	\$0.00	0%	\$0.00	0%	\$0.00
24	Mulching	1,000	SY	\$2.50	0	\$0.00	0	\$0.00	0	\$0.00
25	Gravel Surface Restoration	2,920	CY	\$35.00	0	\$0.00	0	\$0.00	0	\$0.00
26	Pressure Pipe Flushing, Testing, and Disinfection	All Req'd	LS	\$25,000.00	0%	\$0.00	0%	\$0.00	0%	\$0.00
27	Cap Existing Water Mains	2	EA	\$1,500.00	0	\$0.00	0	\$0.00	0	\$0.00
28	Control of Water	500	LF	\$10.00	0	\$0.00	0	\$0.00	0	\$0.00
29	Trench Dam	10	EA	\$900.00	0	\$0.00	0	\$0.00	0	\$0.00
30	Retaining Wall Block	120	CY	\$500.00	0	\$0.00	0	\$0.00	0	\$0.00
Bid Option A Total						\$ 0.00		\$ 200,562.50		\$ 200,562.50

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Date:

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Item No.	CONTRACT ITEMS Description	BID PRICES			PREVIOUS		THIS PERIOD		TOTAL TO DATE	
		Qty.	Unit	Unit Price	Qty.	Amount	Qty.	Amount	Qty.	Amount
Additive Alternate 1										
A1-1	Electrical Conduit	12,780	LF	\$8.00	0	\$0.00	0	\$0.00	0	\$0.00
A1-2	Communication Vault	17	EA	5,200.00	0	0.00	0	0.00	0	0.00
A1-3	Gravity Wall	300	SF	39.00	0	0.00	0	0.00	0	0.00
Additive Alternate 1 Total						\$ 0.00		\$ 0.00		\$ 0.00
Additive Alternate 2										
A2-1	Electrical Conduit	530	LF	\$12.50	0	\$0.00	0	\$0.00	0	\$0.00
A2-2	Communication Vault	1	EA	5,200.00	0	0.00	0	0.00	0	0.00
A2-3	Electrical Conduit Testing	All Req'd	LS	4,000.00	0%	0.00	0%	0.00	0%	0.00
A2-4	Gravel Surface Restoration	110	CY	35.00	0	0.00	0	0.00	0	0.00
Additive Alternate 2 Total						\$ 0.00		\$ 0.00		\$ 0.00
Additive Alternate 3										
A3-1	Communication Vault Replacing Telephone Ped	4	EA	\$6,000.00	0	\$0.00	0	\$0.00	0	\$0.00
A3-2	Testing of Existing Conduit	All Req'd	LS	2,500.00	0%	0.00	0%	0.00	0%	0.00
A3-3	Fiber Optic Cable Installation and Testing	All Req'd	LS	45,000.00	0%	0.00	0%	0.00	0%	0.00
A3-4	Fiber Optic Cable Termination and Testing	All Req'd	LS	5,000.00	0%	0.00	0%	0.00	0%	0.00
Additive Alternate 3 Total						\$ 0.00		\$ 0.00		\$ 0.00

**APPLICATION FOR PAYMENT NO. 1
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Date:

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Change Orders:	Qty.	Unit	Unit Price	PREVIOUS		THIS PERIOD		TOTAL TO DATE	
Total All Change Orders				\$	0.00	\$	0.00	\$	0.00
Materials on Hand:	Qty.	Unit	Unit Price	PREVIOUS		THIS PERIOD		TOTAL TO DATE	
Item				Qty.	Amount	Qty.	Amount	Qty.	Amount
8 Tnemec Company (Paint)						100%	\$1,035.00		1,035.00
Total Materials on Hand				\$		\$	1,035.00	\$	1,035.00
TOTAL WORK COMPLETED AND MATERIALS ON HAND				\$		\$	201,597.50	\$	201,597.50
SUMMARY									
				PREVIOUS		THIS PERIOD		TOTAL TO DATE	
1. Amount Earned				\$	0.00	\$	201,597.50	\$	201,597.50
2. Amount Retained (5%)				\$	0.00	\$	(10,079.88)	\$	(10,079.88)
5. Sales Tax @ 7.5% (Less Retainage)				\$	0.00	\$	14,363.82	\$	14,363.82
6. Liquidated Damages				\$	0.00	\$	0.00	\$	0.00
Amount Due for Payment				\$	0.00	\$	205,881.45	\$	205,881.45
Amount Due for Payment this Estimate						\$	205,881.45		
Estimated % Job Completed:				6%					



TNEMEC COMPANY, INC.

123 West 23rd Avenue
 North Kansas City, MO
 64116 USA

Tel +1 816-483-3400
 Fax +1 816-483-3401
 tnemec.com

Invoice	
Date : 04/24/23	Number : 2609695
Customer # : 155808	Territory : 035
Order # : 1047758	Terms : NET45
Price Agreement :	Tax Code :
Shipped Date : 04/24/23	FOB : SHIP POINT
Freight Terms : LTL	Routing : OAK HARBOR FREIGHT L
PO # : 23-205-09	
Project : WHITESALMON2023- TRANSMISSION MAIN REPLA	

Bill To:
 NORTH CASCADE EXCAVATING, LLC
 428 N. PERKIN ROAD
 WOODLAND WA 98674

Sold To:
 NORTH CASCADE EXCAVATING, LLC
 428 N. PERKIN ROAD
 WOODLAND WA 98674

Remit To:
 TNEMEC COMPANY INC
 PO BOX 843797
 DALLAS TX 75284-3797

Ship To:
 NORTH CASCADE EXCAVATING, LLC
 428 N. PERKIN ROAD
 WOODLAND WA 98674 UNITED STATES

Please reference the invoice number above on your remittance.

ACH PAYMENTS ACCEPTED

Qty	Item	Description	Units	Billing UOM	Price	Extended Price
4	F001-1216-1G	OMNITHANE GREENISH-GREY	4.0000	EA	112.00	448.00
	THIS PRODUCT IS NON-RETURNABLE					
4	N1095P-24GR-SK	ENDURA-SHIELD LIGHTPOLE	4.0000	GL	92.00	368.00
1	F041-0002-1G	THINNER CLEAR	1.0000	GL	35.00	35.00
1	F041-0010-1G	THINNER CLEAR	1.0000	GL	49.00	49.00
1	FRT - LTL - L1	FREIGHT - LTL - LEVEL1	1.0000	EA	135.00	135.00

These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. Government or as otherwise authorized by U.S. law and regulations.

All claims for damages in transit or shortage must be filed with the carrier. Terms and conditions of sale are presented on the reverse side hereof. Any and all additional or different terms shall not become part of the contract between TnemeC and you. Your acceptance of the goods will be considered an acceptance and assent to the terms on the reverse side hereof.

Subtotal	1,035.00
Total Tax	0.00
Order Total	1,035.00
Currency	USD
Due Date	06/08/23

Terms and Conditions

1. ACCEPTANCE: A contract for this order is expressly conditioned on your assent to and acceptance of the terms and conditions presented below. Any and all additional or different terms provided on any form supplied by you shall not become a part of the contract between Tnemec Company, Inc. ("Tnemec") and you ("Buyer"). Your acceptance of the goods will be considered an acceptance and assent to the terms presented below.

2. TERMS OF PAYMENT: Credit and payment terms for Buyer shall be determined by Tnemec's Credit Department prior to shipment. Tnemec reserves the right before making any delivery to require payment in cash or security for payment. Any payment owed to Tnemec and not paid when due shall be subject to a financing charge of 1% per month from the date on which it is due until it is paid.

3. RETURNED GOODS POLICY: All returned paints and coatings must be properly evaluated and handled in strict conformance with various Federal and State regulations. The Tnemec Returned Goods Policy is accessible at www.tnemec.com site link Terms and Conditions.

4. CUSTOM COLORS: Up to 10% over any quantity ordered (maximum of 50 gallons) in any non-standard color may be shipped without prior approval.

5. ATTORNEYS' FEES: Seller shall be entitled to recover from Buyer its attorney's fees and all related expenses incurred in: (i) seeking to enforce these terms and conditions, or (ii) defending any claims by Buyer upon which Seller prevails.

6. PERFORMANCE: Tnemec shall not be liable for any delay in performance and shall not be responsible for the failure to apply the product(s) in strict compliance with Tnemec's product data sheet. Tnemec's sales representatives have no authority to change, modify, or alter these terms and conditions or the product data sheet, including the application information.

7. APPLICABLE LAW AND DISPUTES: Any disputes between the parties hereto shall be resolved in the courts of the appropriate jurisdiction, and all of the terms and conditions with respect to the sale and purchase of the materials named herein shall be construed in accordance with the laws and judicial decisions of the State of Missouri. Unless expressly agreed in writing, no dispute shall be resolved through arbitration. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to any international sale of goods between Tnemec and Buyer.

8. WARRANTY: Tnemec warrants only that its coatings represented herein meet the formulation standard of Tnemec.

THE WARRANTY DESCRIBED IN THE ABOVE PARAGRAPH SHALL BE IN LIEU OF ANY OTHER WARRANTY, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.

9. LIMITATIONS OF SELLER'S LIABILITY: The sole and exclusive remedy against Tnemec shall be for replacement of the product in the event a defective condition of the product should be found to exist. This limitation of liability shall apply to any claim against Tnemec, to the fullest extent permitted by law, including without limitation, any claim of breach of contract, negligence, misrepresentation, nondisclosure, breach of any duty of good faith and fair dealing, violation of any consumer protection statute, or any tort claims.

NO OTHER REMEDY (INCLUDING, BUT NOT LIMITED TO, INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR LOST PROFITS, LOST SALES, INJURY OF PERSON OR PROPERTY, ENVIRONMENTAL INJURIES, OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL LOSS) SHALL BE AVAILABLE.

The sole purpose of this exclusive remedy shall be to provide replacement of the product if any defect in materials is found to exist. This exclusive remedy shall not be deemed to have failed its essential purpose as long as Tnemec is willing to replace the defective materials.

10. DELIVERY, RISK OF LOSS: Shipping and delivery dates are approximate and are based on Tnemec's ability to obtain all materials necessary to manufacture the products. Tnemec shall not be liable for damages resulting from any delay or failure to deliver the goods, or otherwise perform under this order, due to circumstances beyond its control and not caused by its fault or negligence, including but not being limited to, any act of government, inability to obtain materials, failure of vendors, strikes, labor disputes, civil commotion, acts of God, pandemics or epidemics, or other occurrences rendering Tnemec's performance commercially impracticable, regardless of whether such occurrences are foreseeable. Risk of loss shall transfer at the point of delivery.

11. DUTIES AND FEES: For international sales, Buyer shall be responsible for all sales, use, duties, tariffs, or import fees regarding the purchase of the Goods. Buyer shall comply with all laws regarding the importation of the products.

12. LABELING: For international sales, Buyer will provide Seller any special labeling requirements to comply with the laws of the country of import and will be responsible for the compliance of the product packaging and labeling with the laws of the country of import.

13. EXPORT CONTROLS AND REGULATIONS: Buyer acknowledges that export or reexport of any Tnemec product is subject to U.S. export regulations. Buyer represents and warrants that it is not on, or associated with any organization on the U.S. Department of Commerce's Bureau of Industry and Security's Denied Persons List or Unverified List; or any prohibited party list maintained by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of Commerce, or the U.S. Department of State. Buyer shall comply with all relevant laws and regulations of governmental bodies or agencies, including but not limited to all applicable export control laws of the United States or other governing agencies and their successors. Buyer shall not export or reexport any Tnemec products to any prohibited party or to any restricted country.

For the French translation of the Terms and Conditions go to <https://www.tnemec.com/company/terms/TermsAndConditions>

File Attachments for Item:

B. Resolution 2023-05-564 Declaring Surplus Property



Department Head:	MH
Clerk/Treasurer:	SMP
City Administrator:	TR
Mayor:	MK

CITY COUNCIL REPORT

Business Item

XX Consent Agenda

Needs Legal Review: Yes, Complete
 Meeting Date: May 17, 2023
 Agenda Item: Resolution 2023-05-564 Trade of Surplus Property.
 Presented By: Mike Hepner, Police Department

Action Required: Approve the surplus of four firearms to ProForce Law Enforcement to provide the department a credit which will be used to reduce the expense of replacement rifles.

Proposed Motion for Consent Agenda: Move to adopt Resolution 2023-05-564 Trade of Surplus Property.

Explanation of Issue: The police department has been approved and purchased replacement rifles for the officers. The surplus of four department rifles to the vendor will offset the expense of the new rifles. Total value of items for surplus: \$1315.80.

Items for surplus:

1. Bushmaster Model XM15-E2S, serial #L230400
2. Bushmaster Model XM15-E2S, serial #L223237
3. Bushmaster Model XM15-E2S, serial #L231589
4. Bushmaster Model XM15-E2S, serial #L227399

Council Options:

City Council has the following options available at this time:

1. Accept the Staff Recommendation.
2. Revise the Staff Recommendation.
3. Refer this issue back to staff for additional work.

Fiscal Analysis:

The 2023 police department approved budget had funding for the final three replacement rifles for our officers. The surplus of the four old rifles will provide a credit of \$1315.80, this will bring the total expense for the three new rifles to \$1233.60.

Recommendation of Staff/Committee: Staff recommends the City Council approve the request to surplus items which will offset the expense of the new equipment.

Follow Up Action: No follow up action required.

**CITY OF WHITE SALMON, WASHINGTON
RESOLUTION NO. 2023-05-564**

**A RESOLUTION OF THE CITY OF WHITE SALMON, WASHINGTON DECLARING
SURPLUS PROPERTY IN THE CITY OF WHITE SALMON, WASHINGTON**

WHEREAS, the City of White Salmon is the owner of property described below; and

WHEREAS, the property described below is surplus to the City’s needs and it would be in the best interest of the City of White Salmon to sell the property; and

WHEREAS, the City of White Salmon desires to trade in the surplus property as described to offset the expense of the new rifles approved for purchase in the 2023 Police Department Budget; and

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITE
SALMON, WASHINGTON, HEREBY RESOLVES:**

Section 1. The following property is hereby declared surplus to the City’s needs and may be sold for trade in value:

- Bushmaster Rifle Model XM15-E2S, serial #L230400
- Bushmaster Rifle Model XM15-E2S, serial #L223237
- Bushmaster Rifle Model XM15-E2S, serial #L231589
- Bushmaster Rifle Model XM15-E2S, serial #L227399

Section 2. The City Council of the City of White Salmon authorizes the above-described property to be traded for a credit of \$1315.80 to reduce the cost to purchase new rifles.

Section 3. The City of White Salmon authorizes the Police Chief to sign over the surplus property to the authorized firearm dealer for credit towards the purchase of new police rifles.

ADOPTED by the City Council of the City of White Salmon, Washington and approved by its Mayor at regularly scheduled open public meeting thereof this 17th day of May 2023.

Marla Keethler, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Porter, Clerk/Treasurer

Shawn MacPherson, City Attorney

File Attachments for Item:

A. Resolution 2023-05-563 Authorizing the Four Oaks Development Agreement with Main Street LLC

1. Continuation of Public Hearing opened on May 3, 2023
2. Discussion
3. Action



Department Head:	JB
Clerk/Treasurer:	SMP
City Administrator:	TR
Mayor:	MK

COUNCIL REPORT



Business Item



Consent Agenda

Needs Legal Review:

Yes, Competed

Meeting Date:

May 17, 2023

Agenda Item:

Resolution 2023-05-563

Presented By:

Jeff Broderick

Action Required:

City Council will review the proposed development agreement (agreement) for the Four Oaks Subdivision, File WS-SUB 2023-001 and WS R-PUD-2023-001

Motion for Business Item / Proposed Motion for Consent Agenda:

Motion to approve Resolution 2023-05-563 Authorizing the Development Agreement for ludes findings and recommended conditions of approval for the Four Oaks Subdivision, Files WS-SUB-2023-001 and R-PUD-2023-001.

Explanation of Issue: Main Street White Salmon, LLC has proposed a 31-lot subdivision/residential planned unit development (R-PUD) on North Main Street in the between Spring Street and Loop Road. The City of White Salmon intends to purchase 10 of these lots for future development of housing that is more affordable.

In addition to the preliminary plat that was passed by the council on April 19, subdivisions often have a development agreement. The agreement is a document signed by the developer and the City to further clarify how infrastructure is to be constructed, the timing, and often, who pays for what.

Much of what is in the agreement was covered during the public hearings for the Four Oaks subdivision. The agreement goes into greater detail about this.

Highlights of the draft proposed agreement for the Four Oaks development include:

- The City agreeing to purchase Lots 22-31
- The City agrees to construct a pump station to assure additional and consistent water pressure in this area of White Salmon. Currently in this pressure zone, there are approximately the equivalent of 15 new potential residential connections before water capacity in this pressure zone is reached. The pump station addresses the limited water capacity and will serve an area greater than just the Four Oaks subdivision. Without the new pump station, development for everyone in this area will be constrained.
- Until the pump station is complete (anticipated to be summer 2024), five connections are assured to the developer of the Four Oaks subdivision with the remainder available to others who may develop in this area. Should the Four Oaks developer complete five residences prior to the pump station being complete, additional connections would be considered at that time.
- Because of limited capacity, the City agrees to not develop Lots 22-31 until the pump station is complete.
- The owner of the Four Oaks property agrees to grant an easement right for the benefit of the City and pump station. This easement will be in the southeast corner of the property and next to NE Main Street.

The presented agreement was finalized on April 28 with review by legal counsel completed on Monday, May 1. The agreement was made available on May 1 for review as a supporting document on the May 3, 2023 Council Meeting page on the City's website.

Council Options:

City Council has the following options available at this time:

1. Accept the Staff Recommendation.
2. Revise the Staff Recommendation.
3. Refer this issue back to staff for additional work.
4. Take No Action
5. Other action as desired by council.

Fiscal Analysis:

The current 2023 adopted budget has ARPA funds allocated for the purchase of real property to include lots 22-31 of the Four Oaks Subdivision. Because the City is able to purchase these lots at a cost lower than market rate, the City has agreed to waive some utility connection fees in the future. The pump station is a project that would need to be done to address water pressure issues/lack of future capacity regardless of the Four Oaks development.

Recommendation of Staff/Committee:

Staff recommends approval of Resolution 2023-05-563

Follow Up Action:

Once approved, the mayor will sign the resolution and the parties will need to sign the agreement.

City of White Salmon, Washington

RESOLUTION NO. 2023-05-563

A RESOLUTION approving a Development Agreement between the City of White Salmon and Main Street White Salmon LLC.

WHEREAS, Main Street White Salmon LLC, is the owner of certain real property located within the City of White Salmon; and

WHEREAS, the parties have negotiated a Development Agreement relating to said property; and

WHEREAS, the Development Agreement sets forth certain standards that will govern the development of the property; and

WHEREAS, the City Council has conducted a public hearing on the proposed Development Agreement on May 17, 2023, at which time it considered testimony from all interested parties; and

WHEREAS, the City Council finds that the agreement has been reviewed by staff and has been found to meet applicable planning requirements; and

WHEREAS, the City Council desires to approve the Development Agreement and authorize the Mayor to sign the Agreement on behalf of the City.

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

I

That certain Development Agreement between the City of White Salmon and Main Street White Salmon LLC, relating to certain real property located within the City's municipal boundary is hereby approved. The Mayor is authorized and instructed to sign the agreement on behalf of the City.

II

Upon execution by all parties thereto, the Development Agreement shall be recorded with the Klickitat County Auditor, pursuant to the requirements of RCW 36.70B.190.

ADOPTED BY THE COUNCIL OF THE CITY OF WHITE SALMON AND
APPROVED BY THE MAYOR this 17th day of May, 2023.

Marla Keethler, Mayor

ATTEST:

APPROVED AS TO FORM:

Stephanie Porter, Clerk/Treasurer

Shawn MacPherson, City Attorney

MAIL TAX STATEMENTS TO:

AFTER RECORDING RETURN TO:

This space provided for recorder's use.

RECORDING COVER SHEET

INSTRUMENT TITLE: DEVELOPMENT AGREEMENT

PARTIES: MAIN STREET WHITE SALMON, LLC, a
Washington limited liability company
CITY OF WHITE SALMON, WASHINGTON

ABBREVIATED LEGAL DESC: Lot 2 SP 2009-10 NWNW; 19-3-11

FULL LEGAL DESC: Klickitat County, WA
Lot 2 of SP 2009-10, recorded under Auditor File
No. 1093016, records of Klickitat County,
Washington.

ASSESSOR'S PROPERTY TAX
PARCEL ACCOUNT NUMBER(S): 03-11-1909-1002/00

DEVELOPMENT AGREEMENT

Effective Date: _____, 2023.

PARTIES:

Main Street White Salmon, LLC, a Washington limited liability company (“Owner”) owns that certain real property located within the City of White Salmon (“City”) more particularly described as follows:

Klickitat County, WA

Lot 2 of SP 2009-10, recorded under Auditor File No. 1093016, records of Klickitat County, Washington.

Subject to compliance with certain terms and conditions, as more particularly described herein, a portion of the property as described is to be sold to the City subject to a Low Income Housing Covenant.

The City of White Salmon is a Washington municipal corporation, and is responsible for land use planning and permitting.

Owner and City are collectively referred to as the Parties.

AUTHORITIES

The parties are authorized to enter this Development Agreement by RCW 36.70B.170(1).

Whereas, pursuant to RCW 36.70B.170, a development agreement may set forth the development standards and other provisions that will apply to, govern and vest the development, use and mitigation of the development of real property for the duration specified in the agreement, which statute provides:

(1) A local government may enter into a Development Agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that will apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement will be consistent with applicable development regulations adopted by a local government planning under chapter 36.70A RCW;

Whereas, the legislative findings supporting the enactment of this section provide:

The legislature finds that the lack of certainty of the approval of development projects can result in a waste of public and private resources, escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private, participation and comprehensive planning, and reduce the economic costs of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project applicants and local governments may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities. It is the intent of the legislature by RCW 36.70B.170 through 36.70B.210 to allow local governments and owners and Owners of real property to enter into development agreements;

RECITALS:

WHEREAS, the Parties have heretofore negotiated and executed that certain Agreement for Purchase and Sale of Real Estate dated April 13, 2022; and

WHEREAS, the conditions and contingencies of said Agreement could not be timely met by the Parties and accordingly multiple Addendums to Agreement for Purchase and Sale of Real Estate have been executed (collectively the 'PSA' which shall further include all subsequently executed Amendments thereto); and

WHEREAS, by the terms of the PSA, the City is to acquire Lots 22-31 of a proposed subdivision (the "Property") with application by Owner thereof to be processed and considered according to law and the terms as set forth; and

WHEREAS, Owner is to retain the remainder of said developed property ('Adjacent Property') under the terms and conditions of the PSA as set forth; and

WHEREAS, the first Addendum provides as an additional contingency to closing of the PSA the negotiation and approval of a Development Agreement to address development standards, address timing of City construction of housing in relation to installation of a new water pump station, and address phasing of the development in support of required and available water connections; and

WHEREAS, the PSA identified in Section 6(d) thereof certain conditions precedent to the obligations of Owner which include obtaining all necessary entitlements to proceed with development of Final Plat and Site Plan Approval for the Property and Adjacent Property and other conditions as set forth therein which application was reviewed, subject to public hearing, and approved by City Council, subject to the conditions as set forth within this Development Agreement as stipulated by Developer; and

WHEREAS, the City completed the process for implementation of revised R-PUD standards as more particularly described in the PSA; and

WHEREAS, WSMC 17.75.050E2 provides that the City and a developer may enter into a Development Agreement to address adequacy of necessary utilities as part of the approval criteria for an R-PUD development application and the terms as set forth herein are intended to be a part of such application as a condition of approval thereof; and

WHEREAS, the City desires to provide for additional and necessary infrastructure planning to include a booster pump station (the 'North Main Pump Station') with anticipated three-pump system, two pumps for domestic flow and one pump for high flow demands; and

WHEREAS, the City has obtained necessary financing for the construction of the North Main Pump Station; and

WHEREAS, the Parties intend by this Development Agreement to provide certainty for development of the Property and Adjacent Property such as to allow the contingencies and conditions for closing of the PSA to timely occur to include but not be limited to availability of fire flow to meet the minimum requirements for the preliminary proposed development as prescribed by the International Fire Code, Appendix B and dedication of right of way for the construction of a new water system pump station; and

WHEREAS, this development agreement is authorized by a Resolution of the City Council of the City of White Salmon following a hearing as required by RCW 36.70B.170;

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

1. **DEVELOPMENT AGREEMENT:** This Agreement is a Development Agreement to be implemented under the authority of and in accordance with RCW 36.70B.170 through RCW 36.70B.210. It shall become a contract between the Owner and the City upon action by the City Council of the City of White Salmon, following a hearing as required by RCW 36.70B.170, and upon recording with the closing of the PSA required by the first Addendum as referenced herein.
2. **CONCEPTUAL OVERVIEW:** Owner intends to develop a subdivision on the as depicted on the conceptual proposed layout as submitted as part of City File

WS-SUB-2023.001. The development will feature 31 lots to range in size, with adequate provisions for streets, landscaping, and other features.

3. **VESTING**: Owner has timely submitted all applications and materials with the City for the contemplated subdivision development to meet the timelines for closing as set forth in the PSA, as amended, and was vested as of the date upon which the application was deemed substantially complete by City.

This Development Agreement shall be followed by work based on best efforts and good faith negotiations between the Owner and City, to develop details regarding infrastructure design, approval, funding and implementation which may be needed in addition to those elements previously agreed as set forth within the PSA or herein. Final details shall be formalized either through an amendment to this Development Agreement or a supplemental additional infrastructure agreement. While not contemplated at this time, these negotiations may include the Owner assuming construction and cost related to additional public improvements to serve adjoining or other properties, e.g. upsizing of utility lines, and in such event the Owner shall be credited for any improvements set forth in final approved plans where such improvements are in excess of standard code requirements or are in excess of that required to serve the development, or as otherwise provided in the Agreement.

Section 2 of the PSA outlines the obligations of the Developer and City as relates to consideration to be paid, credits which shall be granted, and waiver of otherwise applicable residential water connection fees which terms, upon closing of the transaction, shall be incorporated by reference into this Development Agreement and shall be binding upon the parties hereto.

The PSA further provides for the City to pay the construction cost of the sewer line for Developer's adjacent R-PUD in the amount and subject to the cost limits as set forth which upon closing shall be incorporated by reference into this Development Agreement.

Upon closing of the PSA Owner shall diligently pursue construction of the development to allow submission of the final plat thereof within the term of this Development Agreement.

4. **UTILITY INFRASTRUCTURE**.

A. The City has determined that any new development in the existing Strawberry Mountain pressure zone, in which this proposed subdivision currently exists, will impact the City's utility water systems and, without mitigation, will over burden public services as prohibited pursuant to WSMC 17.75.050E.

The mitigation measures set forth in this Agreement are based on the City's development standards. The mitigation measures referenced in this Agreement include water service improvements, construction thereof when

implemented, which will allow City systems to operate at a level of service equivalent to that level of service existing prior to the development and use of the Property and Adjacent Property. The mitigation measures described herein are reasonable, and mitigate the identified impacts. The mitigation measures are a condition of Subdivision final plat approval and further are a condition to the City's obligation under the PSA, as amended.

B. The Parties have discussed the proposed plans for the proposed development, including utility needs, and negotiated in good faith the conceptual design and intent of the water infrastructure to be installed by the City (the "Improvements") as outlined in the Technical Memorandums attached as Exhibit A and further that certain 'North Main-Spring Street Water Improvements Pre-Design Report dated February 2023 (collectively referred to herein as 'Technical Memorandum'). The City has completed a preliminary design report which includes utilizing the area to be dedicated in the southeast corner of the open space as designated on the proposed preliminary plat and has further received Council approval to engage a water engineer to assist in the final design elements. The general dimensions as set forth therein are subject to confirmation in the final report to be completed, with such minor adjustments as may be deemed necessary.

C. It is the intent of the Parties that the Improvements will not only serve the Subdivision, but will also serve the City consistent with adopted plans.

D. This Development Agreement provides that the City shall design and construct the Improvements as required, subject to Owner dedication of right of way as set forth in Section 7 herein and further subject to compliance by Owner with the PSA.

5. CONSTRUCTION OF PUMP STATION

- A. The City shall design and construct the North Main Pump Station to provide the minimum fire flow required by the International Fire Code for one and two-family dwellings, group R-3 and R-4 buildings and townhouses with a fire-flow calculation area of three thousand six hundred square feet and less, prior to the City's issuance of final occupancy for the 6th lot in the Subdivision generally consistent with the description set forth in the Technical Memorandum. In the event the Booster Pump Station is not completed after occupancy of the 5th lot, it is contemplated and the parties have both received adequate assurances that an additional 10 lots would potentially be available for connection by Owner. However, the City is legally constrained from issuing or guaranteeing further certificates at this time and any Owner request for such additional connections would be considered at time of building permit application submission subject to overall capacity limitations of the existing system as reviewed and approved by the city's engineer. The Pump Station Upgrade Infrastructure will be designed, constructed and maintained according to City and State standards. The City and the Owner will maintain a dialog throughout the construction process and

cooperate to minimize unforeseen cost overruns. The City shall not develop Lots 22-33 as proposed to be acquired until the North Main Pump Station is operational.

7. DEDICATION OF RIGHT OF WAY

- A. The Owner will convey(s), grant(s) and dedicate(s) unto the City, its successors and assigns, herein a perpetual right-of-way easement for public improvement purposes to facilitate the construction, operation and maintenance of the booster pump station as described in 6(A) including any transformer.
- B. The configuration of said dedication shall be similar in nature to that as shown in the Technical Memorandum. The dedication and the location thereof will be formally established by separate document upon completion of the Booster Pump Station preliminary design.

8. CONDITION OF APPROVAL

This Development Agreement shall be and act as a condition of approval for the R-PUD application submitted by Owner pursuant to WSMC Section 17.75.050.

MISCELLANEOUS PROVISIONS

Recitals. Each of the Recitals contained herein are intended to be, and are incorporated as, covenants between the Parties and will be so construed.

Execution of Agreement; Counterparts; Electronic Signatures. This Development Agreement may be executed in several counterparts; each of which shall be deemed an original and all of which shall constitute one and the same instrument, and shall become effective when counterparts have been signed by each of the Parties and delivered to the other Parties; it being understood that all Parties need not sign the same counterparts PROVIDED that all signature pages will be recorded together, and the complete recorded Agreement will constitute the final instrument. The exchange of copies of this Agreement and of signature pages by facsimile transmission (whether directly from one facsimile device to another by means of a dial-up connection or whether mediated by the worldwide web), by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

Effective Date. This Agreement is effective on the date of execution by the last party to execute this Agreement.

Termination. This Agreement will terminate upon the mutual agreement of the Parties in writing, which will be recorded.

City's Reserved Authority. Notwithstanding anything in this Agreement to the contrary, the City will have the authority to impose new or different regulations to the extent required by a serious threat to public health and safety as required by RCW 36.70B or as may be provided in the Agreement, as amended. Further, the City may adopt interim or permanent directives or resolutions to address concurrency or other development standards or be subject to extra-jurisdictional restrictions beyond the control of the City to include but not be limited to infrastructure capacity restrictions, all of which may conflict with the terms herein or the PSA and shall not constitute a default on the part of the City.

Authorization. The persons executing this Agreement on behalf of Owner and the City are authorized to do so and, upon execution by such parties, this Development Agreement will be a valid and binding obligation of such parties in accordance with its terms. The Parties have each obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby.

Run with the Land. This Agreement will run with the land and be binding on the Parties' successors and assigns, and will be recorded with the Klickitat County Auditor.

Term. The Term of this Agreement will expire on December 31, 2024, unless earlier extended or terminated by the Parties.

Public Hearing. The White Salmon City Council has approved execution of this Agreement by resolution after a public hearing.

Dispute Resolution. Should a disagreement arise between the Parties, the Parties agree to attempt to resolve the disagreement by first meeting and conferring. If such meeting proves unsuccessful to resolve the dispute, the disagreement may be resolved by a civil action.

Venue. This Agreement will be construed in accordance with the laws of the State of Washington, and venue is in the Klickitat County Superior Court.

Performance. Failure by any Party at any time to require performance by the other Parties of any of the provisions hereof will not affect the Parties' rights hereunder to enforce the same, nor will any waiver by a Party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this clause.

Severability. If any portion of this Agreement will be invalid or unenforceable to any extent, the validity of the remaining provisions will not be affected thereby. If a material provision of this Agreement is held invalid or unenforceable such that a Party does not receive the benefit of its bargain, then the other Parties will renegotiate in good faith terms and provisions that will effectuate the spirit and intent of the Parties' agreement herein.

Inconsistencies. If any provisions of the White Salmon Municipal Code and land use regulations are deemed inconsistent with this Agreement, the court shall first attempt to harmonize the provisions and if unable to do so, the provisions of this Agreement will prevail, excepting the City's reserved authority as explicitly defined herein.

Amendments. This Agreement may only be amended by mutual written agreement of the Parties, and all amendments will be recorded in the Klickitat County deed records.

Survival. Any covenant or condition set forth in this Agreement, the full performance of which is not specifically required prior to the expiration or earlier termination but which by its terms is to survive the termination of this Agreement, will survive the expiration or earlier termination of this Agreement and will remain fully enforceable thereafter.

No Benefit to Third Parties. The Parties are the only parties to this Agreement and are the only parties entitled to enforce its terms, except as otherwise specifically provided in this Agreement. There are no third-party beneficiaries.

Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to the subject matter, and merges, supersedes, and terminates any prior Development Agreements.

Notices. All notices will be in writing and may be delivered by personal delivery, by overnight courier service, or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested, and addressed as follows:

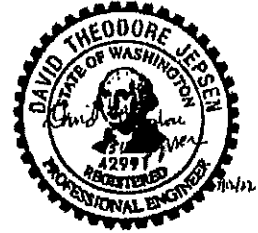
Interpretation of Agreement; Status of Parties. This Agreement is the result of arm's-length negotiations between the Parties and will not be construed against any Party by reason of its preparation of this Agreement. Nothing contained in this Agreement will be construed as creating the relationship of principal and agent, partners, joint venturers, or any other similar relationship between the Parties.

Future Assurances. Each of the Parties will promptly execute and deliver such additional documents and will do such acts that are reasonably necessary, in connection with the performance of their respective obligations under this Agreement according to the Schedule so as to carry out the intent of this Agreement.

Signatures appear on the following pages.

EXHIBIT A

TECHNICAL MEMORANDUM No. 5



To: Jan Brending, City Clerk/Treasurer,
City of White Salmon, Washington

From: David Jepsen, P.E., Anderson Perry & Associates, Inc.

Re: Reservoir Capacity Issues in the Strawberry Mountain and North Main /Simmons
Road Pressure Zones

Date: July 15, 2022

Job/File No.: 250-12-02, w/attach

Based on preliminary calculations on reservoir capacity, the reservoir capacity at the Strawberry Mountain Reservoirs is insufficient to handle current and future water demand in the Strawberry Mountain and North Main/Simmons Road pressure zones. In this technical memorandum, the basis for the current and future reservoir capacity needed at the Strawberry Mountain Reservoirs are reviewed along with possible solutions to address the reservoir capacity needs of the supplied pressure zones.

Background

Due to the location of its sources and topographic elevation changes in its service area, the City of White Salmon has several different pressure zones for supplying water to its customers. The City's pressure zones for the Central Region (where the bulk of the City's customers reside) are shown in the attached draft Figure 3-4. The Strawberry Mountain, Strawberry Reservoir, and North Main /Simmons Road pressure zones are served by the Strawberry Mountain Reservoirs. Water is conveyed from the Los Altos Reservoir to the Strawberry Mountain Reservoirs through the Los Altos Pump Station, which is located on the Los Altos Reservoir site. For the purposes of this technical memorandum, the Strawberry Mountain and Strawberry Reservoir pressure zones will be referred to as the Strawberry Mountain pressure zone.

The Strawberry Mountain Reservoirs supply of the Strawberry Mountain and North Main/Simmons Road pressure zones is a relatively recent development. Historically, these pressure zones were supplied water from different reservoirs. The Strawberry Mountain pressure zone was served by the Strawberry Mountain Reservoirs and the North Main/Simmons Road pressure zone was supplied water from the Spring Street Reservoir by a booster pump station referred to as the Main Street Pump Station.

The Main Street Pump Station consisted of two 320 gallon per minute (gpm) pumps located in a below ground vault adjacent to Spring Street. The station pumps could only be controlled from within the vault and required to be manually switched to allow alternate operation of the pumps. The pumps could not operate at the same time; one pump operated continually, requiring a pressure relief valve to expel high pressure water during low demand. As a belowground facility, the Main Street station was considered a high risk for failure due to flooding and a safety concern for entry as a confined space. In addition, this station was unable to provide the 2,000 gpm fire flow that was needed in the North Main /Simmons

Road pressure zone. For these reasons, decommissioning of this pump station was recommended in the City's 2014 Water System Plan (WSP).

To provide sufficient fire flow to the North Main/Simmons Road pressure zone and to eliminate the Main Street Pump Station, the construction of an additional reservoir tank at Strawberry Mountain and installation of at least two pressure reducing valve (PRV) stations were recommended to serve the North Main/Simmons Road area from the Strawberry Mountain Pressure Zone. One of PRV stations would be located on Cochran Lane (just north of Loop Road); the other station would be located off a new 10-inch diameter line on Spring Street that would connect to the Main Street Pump Station piping (off the Strawberry Mountain Reservoir). In the 2014 WSP, construction of another 99,200-gallon tank was recommended at the Strawberry Mountain Reservoir site to provide an additional 55,000 to 65,000 gallons of nested standby and fire flow storage projected to be needed with the addition of the North Main/Simmons Road pressure zone. Since the 2014 WSP, the implemented improvements included decommissioning and removal of the Main Street Pump Station and installation of the Cochran PRV station (installed adjacent to Loop Road). The additional reservoir storage tank and installation of a new 10-inch main and pressure reducing valve station were not constructed.

Based on 2020 consumption records and revised capacity calculations, the Strawberry Mountain Reservoirs lack sufficient storage and additional storage of approximately 140,000 gallons, 210,000 gallons, and 290,000 gallons are needed for 2021, 2031, and 2041, respectively (assuming nesting of standby and fire flow storage). Since 2014, water demand has increased more than anticipated, which has resulted in the increase in reservoir storage amount over than forecasted. With these reservoir capacity deficits at the Strawberry Mountain Reservoirs, the City would need to implement a solution or institute a moratorium on new water services in the Strawberry Mountain and North Main/Simmons Road pressure zones.

Options

Two basic options for resolving the current and future reservoir deficit at the Strawberry Mountain Reservoirs are as follows: 1) construct new reservoir storage tank at Strawberry Mountain or 2) construct a new pump station off North Main Avenue to serve the North Main/Simmons Road pressure zone. A more detailed description of the components and work needed to implement each of these basic options is discussed below.

Option 1: New Reservoir Storage at Strawberry Mountain Site

This option would include the construction of a nominal 300,000-gallon (minimum) reservoir tank at the Strawberry Mountain Reservoir site. The proposed tank construction is glass-fused-to-steel because of the City's familiarity with this type of tank (same type of construction at Dock Grade and Childs Reservoirs) and the ability to increase capacity in the future (raise the tank walls) if the foundation is oversized at initial construction. Nominal dimensions of the new tank would be 45-foot diameter and 29 feet tall, with the possibility of raising the tank to a max water level height of 47 feet or taller (additional 210,000-gallon capacity with 47-foot sidewall). The new reservoir tank would work at the same water level as the existing reservoirs until additional height was added. This option would likely require the relocation of the existing booster pump station, depending on the needed realignment of the existing Strawberry Mountain Road (private). This existing road occupies a significant portion of the site and realignment is needed to provide more space on the site.

The new tank and existing reservoirs would be used to supply Strawberry Mountain and North Main/Simmons Road pressure zones. Once the tank is raised, the existing reservoirs would exclusively supply the booster pump station serving the Strawberry Reservoir area. Since the existing reservoirs would likely have too much storage for the Strawberry Reservoir area (not enough turnover in the tanks), one of the reservoirs could be taken out of service or decommissioned (most likely the West Reservoir) or both reservoirs could be operated at a reduced water level.

In addition to a new reservoir tank at Strawberry Mountain, the installation of a new booster pump station and transmission main are needed to replace the existing Los Altos Pump Station and convey higher flows to the Strawberry Mountain Reservoir site. These booster pump station and transmission main improvements are needed regardless of a new reservoir tank is constructed at the Strawberry Mountain site. This station is in an underground vault, has outdated controls, no drain, covered with rust along the bottom edge, no standby emergency generator or transfer switch, and limited flow capacity (approximately 175 gpm). The Washington State Department of Health (DOH) considers the location of the Los Altos Booster Station as a high risk for failure due to flooding and a safety concern for entry as a confined space.

A new aboveground booster pump station is recommended to convey water from the Los Altos Reservoir to the Strawberry Mountain Reservoirs. The proposed two pump system would have a 500 to 900 gpm range capacity and located in a fiberglass enclosure downhill from the reservoir, most likely in public right-of-way. Emergency backup power generator is also recommended; diesel or natural gas are potential generator fuel sources. The emergency generator would be installed on a concrete pad and have a residential grade cover to minimize noise during operation.

To convey the new booster pump station flow to the Strawberry Mountain Reservoirs, a larger diameter transmission water main (10- or 12-inch diameter) would need to be installed from the new station location to the existing 10-inch diameter water main located at the intersection of NW Spring Street and NW Country View Road (length approximately 1,600 linear feet).

While this option provides needed reservoir storage needed in the City (specifically to serve the Strawberry Mountain Reservoirs and North Main/Simmons Road pressure zones), additional reservoir storage is needed to supplement the Los Altos/Spring Street Reservoirs' capacity. Due to the age of the existing Spring Street Reservoir and future capacity needs off the Los Altos and Spring Street pressure zones, a nominal 1.0 million gallon reservoir is proposed to replace the existing Spring Street Reservoir. With this option, the proposed new reservoir tank to replace the existing Spring Street Reservoir will be needed between 2031 and 2041.

In addition, the replacement of the Spring Street water main on Spring Street from where the water main enters NW Spring Street from the reservoir tank to NE Fields Avenue is needed with either option (see below for further discussion of this main).

Option 2: New North Main Avenue Pump Station

This option would include the construction of a new booster pump station to supply the domestic need and a portion of the fire flow need for the North Main/Simmons Road pressure zone. It is proposed that this new pump station would be supplied water from the Spring Street Reservoir instead of the Strawberry Mountain Reservoir. The existing Cochran Lane PRV would remain in service but reconfigured to operate only during high flow demand events (i.e., fire flow). The new result of these changes is that the current reservoir capacity deficit at Strawberry Mountain Reservoirs is eliminated,

and the future reservoir capacity deficits are reduced to approximately 9,000 gallons and 50,000 gallons in 2031 and 2041. If the Los Altos Pump Station is replaced with larger capacity pumps that are greater than the peak hour demand for the Strawberry Mountain pressure zone, then the future reservoir deficits are eliminated in 2031 and reduced to 20,000 gallons in 2041, respectively.

The proposed station would have two or three pumps to handle domestic usage, and minimum one pump to handle high demand. At a minimum, two domestic pumps and one high demand pump would be needed immediately. In the future, an additional domestic supply pump would be needed at later date to handle future demand. Due to the potential size and number of pumps, the pump skid would need to be housed in a large fiberglass structure or building (approximately 12 by 16 feet). The location of this booster pump station needs to be adjacent to North Main Avenue, ideally between NW Spring Street and the intersection of NW Loop Road and North Main Avenue. A specific location for this station has not been identified.

Standby on-site backup power generator would be essential for this pump station to operate during a power outage. One possible fuel source for this station is natural gas as an existing main is in North Main Avenue. The emergency generator would be installed on a concrete pad and have a residential grade cover to minimize noise during operation.

Connections with the existing 8-inch diameter piping on Main Avenue would need to be made to the new booster pump station and to the water main on Spring Street. City staff has indicated that the existing 10-inch diameter steel water main on Spring Street between where existing main enters Spring Street from the reservoir to NE Fields Avenue needs to be replaced as part of this option (approximately 1,600 linear feet). The existing steel water main has been a continuing source of leak repair work for City staff. The new water main in this street is recommended to be 12-inch diameter to improve hydraulics not only to the North Main/Simmons Road pressure zone but also the Spring Street pressure zone. Along with the new 12-inch diameter main, extension of approximately 300 linear feet of 8-inch diameter pipe, connected to the Strawberry Mountain pressure zone, is recommended to serve some of the existing services on Spring Street that have lower pressures due to their proximity to the Spring Street Reservoir.

One ramification of shifting the North Main/Simmons Road pressure zone demand from Strawberry Mountain Reservoir to Spring Street Reservoir is the accelerated need to replace the existing Spring Street Reservoir tank from between 2031 and 2041 to sometime before 2031. As mentioned under Option 1 above, the replacement of the Los Altos Pump Station and installation of new transmission main is needed with either option.

Comparison of Options

A comparison of Options No. 1 and No. 2 in terms of estimated project cost (both short term and long term), project timing, advantages and disadvantages, and uncertainties is summarized in Table 1. Short-term costs refer to the immediate construction cost for implementing the option. Long-term costs refer to the cost for other improvements that would need to be eventually implemented (at current dollars) in the next 15 years. Estimated project costs include construction, contingency, sales tax, engineering, environmental and cultural review, and legal, administration, and financing costs. The project contingency was set at 25 percent as an attempt to address current inflation rate and supply chain issues. The project costs for each option (short-term costs) do not include the cost for property acquisition.

**TABLE 1
 COMPARISON OF OPTIONS NO. 1 AND NO. 2**

No. 1 – New Reservoir Tank at Strawberry Mountain	No. 2 – New North Main Ave. Pump Station
<p>Estimated Project Cost (Short Term): \$3.6 million New Reservoir Tank: \$2.2 million New Booster Pump Station: \$580,000 New Transmission Main: \$800,000</p>	<p>Estimated Project Cost (Short Term): \$1.8 million New Pump Station: \$900,000 New Transmission Main: \$875,000</p>
<p>Estimated Project Cost (Long Term): \$5.6 million New Spring Street Water Main: \$875,000 Spring Street Reservoir Replacement (2031-2041): \$4.0 million Transmission Main with New Reservoir: \$750,000</p>	<p>Estimated Project Cost (Long Term): \$6.2 million Additional Pump at Station: \$35,000 Los Altos Pump Station: \$580,000 New Los Altos Transmission Main: \$800,000 Spring Street Reservoir Replacement (before 2031): \$4.0 million Transmission Main with New Reservoir: \$750,000</p>
<p>Total Estimated Project Cost (Short and Long Term): \$9.2 million</p>	<p>Total Estimated Project Cost (Short and Long Term): \$8.0 million</p>
<p>Project Timing: 19 months Design: 7 months Bidding and Contract Execution: 2 months Construction (including submittal review and approval): 10 months Electrical Transformer Ordered by KPUD: 6 months</p>	<p>Project Timing: 14 months Design: 6 months Bidding and Contract Execution: 2 months Construction (including submittal review and approval): 6 months Electrical Transformer Ordered by KPUD: 6 months</p>
<p>Advantages:</p> <ul style="list-style-type: none"> • Provides additional reservoir storage for both pressure zones • Flexibility for future storage capacity • Operation of reservoir tank instead of booster pump station (easier and less operational costs) • More time to construct replacement tank for Spring Street Reservoir <p>Disadvantages:</p> <ul style="list-style-type: none"> • Higher short-term capital costs • Longer time needed to address reservoir capacity issues 	<p>Advantages:</p> <ul style="list-style-type: none"> • Eliminates reservoir deficit at Strawberry Mountain thereby eliminating need for new reservoir tank at site • Least short-term capital costs • Shortest anticipated lead time to implement • Provides fire flow from two directions in North Main/Simmons Road pressure zone <p>Disadvantages:</p> <ul style="list-style-type: none"> • Operation of a booster pump station instead of a reservoir (harder and more operational costs) • Less time to construct replacement tank for Spring Street Reservoir
<p>Uncertainties:</p> <ul style="list-style-type: none"> • Realignment of the Strawberry Mountain Road • Location of and electrical service for the new booster pump station • Type of tank construction and location of replacement tank for Spring Street Reservoir 	<p>Uncertainties:</p> <ul style="list-style-type: none"> • Location of and electrical service for the new booster pump station • Connection point for new booster pump station • Type of construction and location of replacement tank for Spring Street Reservoir • Energy building code requirements for new station

Conclusions

Options No. 1 and No. 2 both a viable options for the City to implement to mitigate the current and future reservoir deficit at the Strawberry Mountain Reservoirs. Option No. 2, New North Main Avenue Pump Station appears to be a more cost-effective solution and can be implemented in a more timing fashion. However, this option accelerates the need for replacing the Spring Street Reservoir tank within the next 10 years.

Option No. 1, New Reservoir Tank at Strawberry Mountain provides needed reservoir capacity in the City but appears to be more costly and take longer to construct. However long term, the new reservoir tank should take less maintenance and have lower operating costs than the new booster pump station in Option No. 2. With this option, the replacement of Spring Street Reservoir is not needed until between 2031 and 2041.

With both options, there are a number of uncertainties, including the location of and electrical service for the North Main Avenue Pump Station and Los Altos Pump Station, realignment of Strawberry Mountain Road, connection point for piping associated with and energy code requirements for the North Main Avenue Pump Station, and type of construction and location for the reservoir tank to replace the Spring Street Reservoir.

Ultimately, the City will need to weigh project costs, timing, advantages and disadvantages, and uncertainties for each option to determine which option best fits its current and future needs.

TECHNICAL MEMORANDUM No. 1

To: Jan Brending, City Clerk/Treasurer,
City of White Salmon, Washington

From: David Jepsen, P.E., Anderson Perry & Associates, Inc. (AP)
Jay Peninger, AP

Re: North Main/Simmons Road Pressure Zones Booster Pump Station Location

Date: August 30, 2022

Job/File No.: 250-22-02

Based on preliminary calculations, reservoir capacity at the Strawberry Mountain Reservoirs is insufficient to manage current and future water demand in the Strawberry Mountain and North Main/Simmons Road pressure zones. To address this reservoir storage deficiency, the construction of a new booster pump station off North Main Street is proposed. This pump station would connect to the water main off Spring Street, thereby providing water for the North Main/Simmons Road pressure zone from a different reservoir with capacity i.e., Spring Street Reservoir. In this technical memorandum, the location for this new booster pump station will be addressed.

Background

Due to the location of its sources and topographic elevation changes in its service area, the City of White Salmon has several different pressure zones for supplying water to its customers. The Strawberry Mountain, Strawberry Reservoir, and North Main/Simmons Road pressure zones are served by the Strawberry Mountain Reservoirs. For the purposes of this technical memorandum, the North Main/Simmons Road pressure zones will be referred to as the North Main pressure zone.

The North Main pressure zone was originally supplied water from the Spring Street Reservoir, by a booster pump station referred to as the Main Street Pump Station. The Main Street Pump Station consisted of two 320-gpm pumps located in a below ground vault adjacent to Spring Street. The City decommissioned this station because of the substantial risk for failure due to flooding, a safety concern for entry as a confined space, and inability to provide the 2,000-gpm fire flow that was needed in the North Main pressure zone.

The proposed booster pump station will likely be a three-pump skid system: two pumps for domestic flow and one pump for high demand i.e., fire flow. The size of the anticipated booster pump skid will require that the skid be installed in a building structure, with nominal dimensions of 12 feet by 16 feet, include a backup generator, access for maintenance, and security fencing. Depending on setback from the structure to the fence line, it is anticipated that the footprint of the site would not exceed forty-five feet by forty-five feet (45' X 45').

Options

AP staff met with City staff to review possible locations for the proposed booster pump station. Several possible booster pump sites were identified and then narrowed down to three for further evaluation. The selected locations were chosen due to their proximity to North Main Avenue, availability of land, and anticipated ease for utility services i.e., electric, natural gas, and water.

The sites selected for further evaluation are as follows: 1) Main Street White Salmon, LLC Site: the southeast corner of Lot 2 of Short Plat No. SPL 2009-10 (Auditor File No. 1093016), this site is in the City; 2) FM & BL, LLC Site: the northwest corner of Lot 3 of Short Plat No. SPL 2008-48 (Auditor File No. 10830523), this site is in the County; or 3) Alley Site: existing alley between North Main Avenue and NE Estes Avenue, this site is in the County. A more detailed description of the components and work needed to implement each of these options is discussed below. An overview of the location of these sites is presented in Figure 1.

Option 1: Main Street White Salmon, LLC Site - Lot 2 of Short Plat No. SPL 2009-10

This option would require securing an easement or right-of-way from the property owner of parcel No. 03111909100200, which is currently in the early stages of the development review process for a subdivision. This dedication could be a condition of the plat or part of a developer's agreement. An existing utility easement identified on the recorded short plat under auditor file No. 1093016, could be utilized to provide power to the site. Natural gas runs parallel to the site in North Main and would be able to provide service for the backup generator. Existing 8-inch diameter water main also parallels the site on the east lane of North Main. Construction of the building could be accomplished at the sidewalk grade and be set partially below the natural contours of the existing grade, thereby reducing visual impacts to the surrounding community.

Option 2: FM & BL, LLC Site - Lot 3 of Short Plat No. SPL 2008-48

This option would require purchasing an easement or right-of way from the property owner of parcel No. 30111908480300. An access agreement from the owners of parcels No. 30111908480300 and 03111908480200 to accommodate the access restriction to North Main Avenue, established with County Resolution 01009, as identified on the recoded short plat under auditor file No. 1083052.

Power would come from the west side of North Main Avenue and require use of an existing utility easement identified on the recorded short plat under auditor file No. 1093016, with an extension north parallel to the roadway for an approximate distance of one hundred and fifty feet (150'), or a new easement would need to be obtained and required directional drilling under North Main Avenue. Natural gas runs parallel to the site in North Main and would be able to provide service for the backup generator. An 8-inch diameter main also parallels the site in the east lane of North Main. Connecting the natural gas and water would require open cut construction of the east lane in North Main. Construction on the site would require minor tree removal and county permitting for the structure and roadway access.

Option 3: Alley Site - Alley Between North Main Avenue and NE Estes Avenue

The existing alley is unimproved and located in the Urban Growth Area (UGA) and in Klickitat County jurisdiction. The alley is sixteen feet in width, has improvements encroaching from adjacent residential properties to the south, and is only accessible from NE Estes Avenue. The Mountain View Grange No. 98

is located to the north. Access is restrictive to North Main Avenue due to a significant grade change. A stormwater culvert discharges from North Main Avenue onto the west end of the alley.

In talking with one of the neighbors adjacent to the alley, both neighbors periodically use the alley. While not opposed to the City constructing a booster pump station in the alley way, the neighbor indicated that he would expect to be able to use the alley way for access. To maintain alley access to the adjoining property owners, the proposed booster pump station would need to be constructed on the westerly portion of the alley way, which would limit accessibility to the station. Access from the north appears to be limited, as the Grange property drain field appears to be just north of the alley way. The stormwater discharge fosters some issues on the very west end of the alley.

Electrical power would originate from the vicinity of North Main and Spring Street intersection. The booster station inlet water could originate from either NE Estes Avenue (with a line extension) or North Main Avenue. The booster station outlet pipe would need to connect to the water main on North Main.

Because of the limited width and access, and other limitations, this site was deemed unfeasible and dropped from further consideration.

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Comparison of Options

A comparison of Options No. 1 and 2 in terms of timing, advantages, disadvantages, and uncertainties is provided in Table 1. Possible layout of the booster pump station on the sites is shown in Figure 2.

Table 1
Comparison of Options No. 1 and 2

No. 1 – Main Street White Salmon, LLC Property Lot 2 of Short Plat No. SPL 2009-10	No. 2 – FM & BL, LLC Property Lot 3 of Short Plat No. SPL 2008-48
Land Acquisition: \$0	Land Acquisition: \$100,000 ??
Project Timing: 14 months Land Acquisition: 4 months (could be concurrent with design) Design: 6 months Bidding and Contract Execution: 2 months Construction (including submittal review and approval): 6 months Electrical Transformer Ordered by KPUD: 6 months	Project Timing: 14 to 26 months Land Acquisition: 6 months (could be 18 months if condemnation is required for access to property) Design: 6 months Bidding and Contract Execution: 2 months Construction (including submittal review and approval): 6 months Electrical Transformer Ordered by KPUD: 6 months
Utilities Electric – from west side down easement Natural Gas – on east side of North Main, requires open cut construction across lanes Water – on east side of North Main, requires one cut construction across lanes	Utilities Electric – requires boring underneath North Main Natural Gas – on east side of North Main, open cut construction on one lane Water – on east side of North Main, open cut construction on one lane
Advantages: <ul style="list-style-type: none"> • In City • Eliminate cost to City if land acquisition is part of plat approval • No appraisal required • Reduced cost for power connection • Opportunity to reduce visual impact to neighboring community Disadvantages: <ul style="list-style-type: none"> • Connection to water main and gas is on the opposite side of the roadway • Sidewalk removal and replacement 	Advantages: <ul style="list-style-type: none"> • Connection to water main and gas service is on the same side of the road Disadvantages: <ul style="list-style-type: none"> • Requires appraisal for land and access acquisition, which may involve condemnation • Multiple owners involved in the project • Additional cost for power service • May require additional utility easements • In County
Uncertainties: <ul style="list-style-type: none"> • Landowners' willingness to cooperate in dedication of land as a condition of the development • County requirements for roadway restoration • Type of construction material for building and security fencing • Public concerns 	Uncertainties: <ul style="list-style-type: none"> • Landowners' willingness to cooperate in the acquisition of easements, may require condemnation • County requirements for roadway restoration and building permitting (may require additional setbacks) • Type of construction materials for building and security fencing • Public concerns

Conclusions

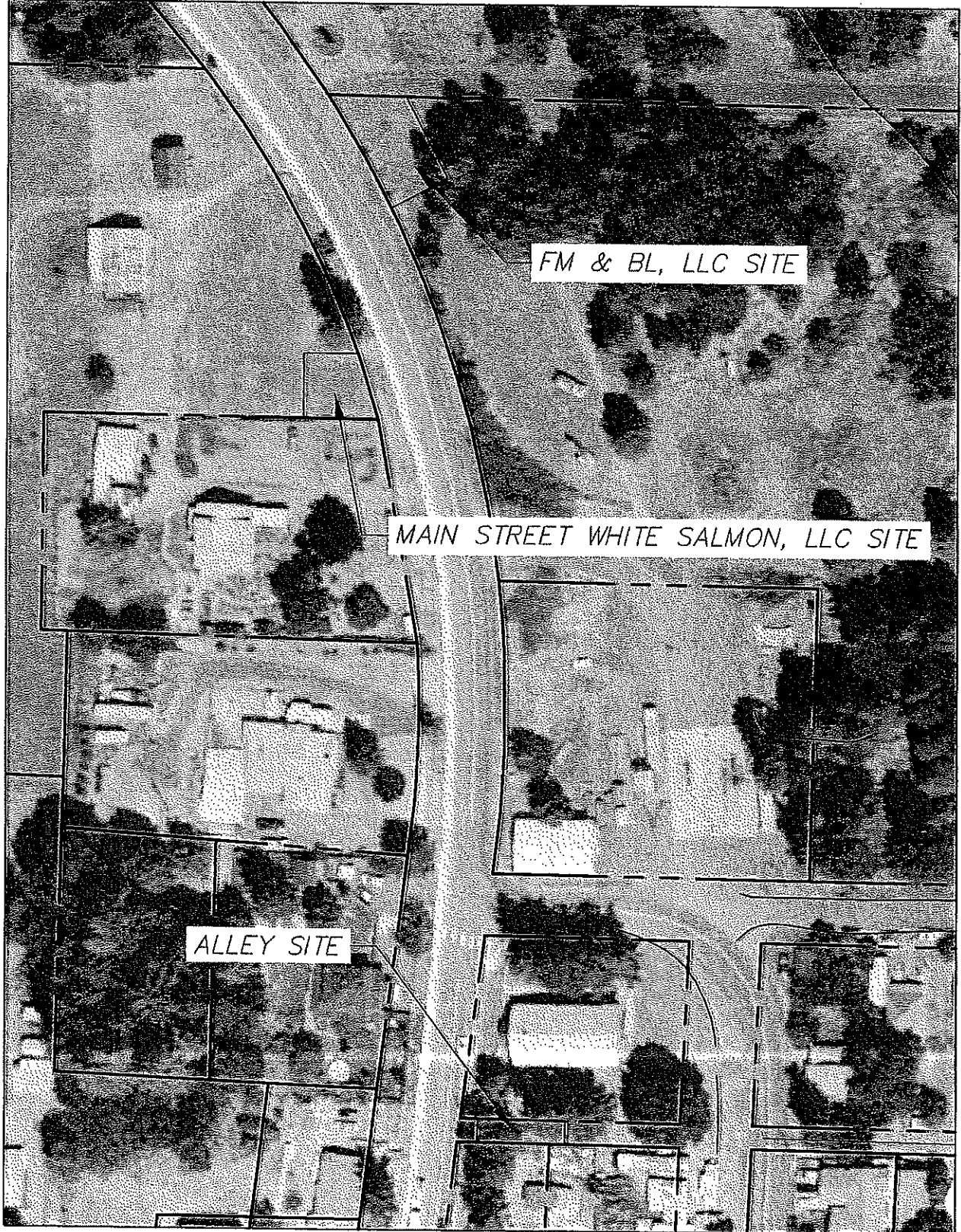
Options No. 1 and 2 are both viable options for the City to consider for placement of the North Main Pump Station. Both sites will require work to connect utilities to the site, with Option No. 1 having less anticipated utility work than Option No. 2.

Option No. 1, Main Street White Salmon, LLC Property appears to be a more cost-effective solution and could be implemented in a more timing fashion. However, this option relies on the City acquiring an easement or right-of-way from the property owner.

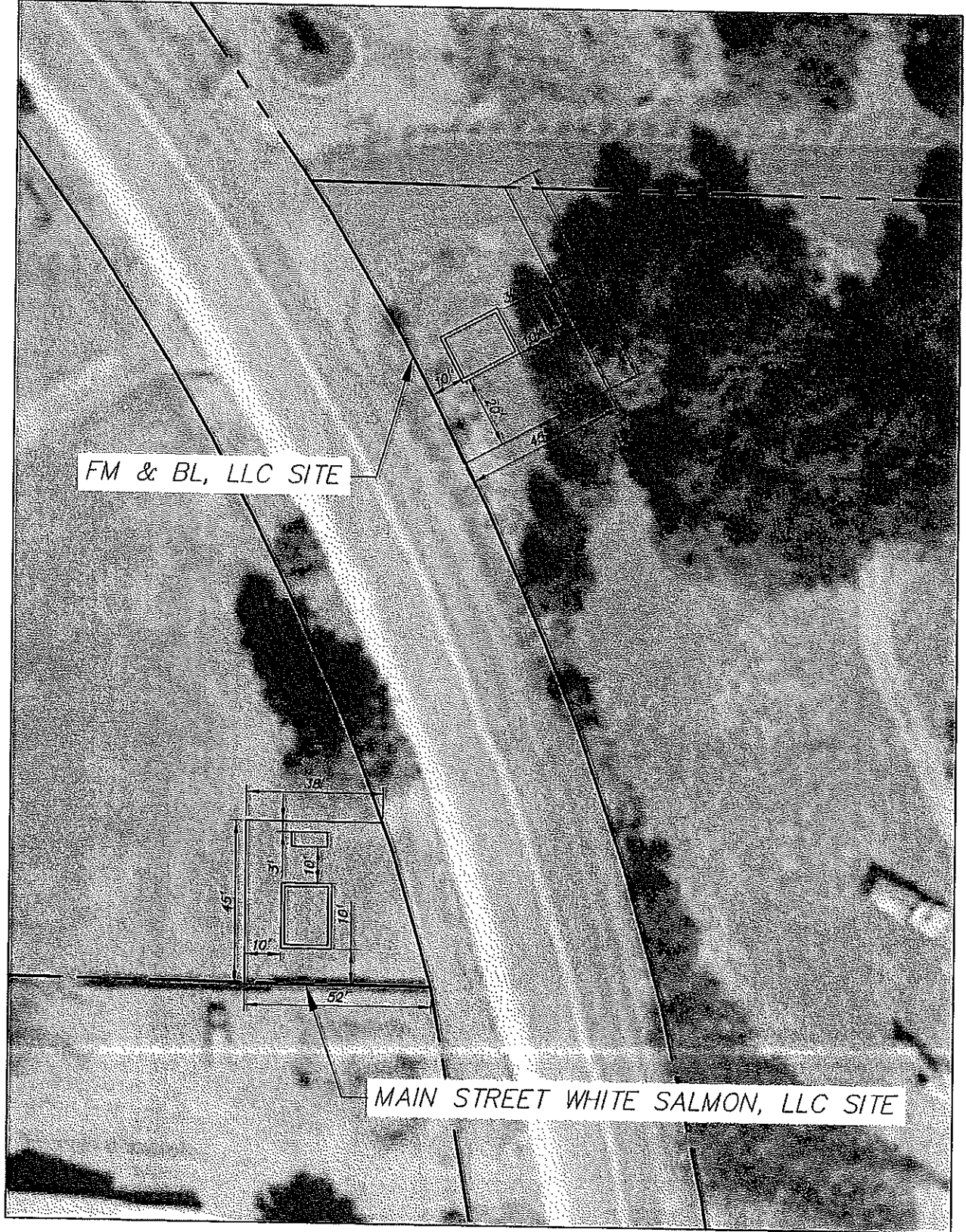
Option No. 2, FM & BL, LLC Property would require the City to acquire an easement for or purchase of the property, and an easement off the access road from the adjoining property owner, as no direct access of North Main is allowed on this property.

Based on this preliminary evaluation of possible booster pump station sites, Option No.1 is the preferred option.

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X:\Clients\White Salmon WA\250-22 North Main-Los Altos Pre-Design Report\Figures\TM 6-250-22-02-FIG 2.dwg, FIGURE 1, 8/30/2022 11:11 AM, jpeninger



File Attachments for Item:

B. Resolution 2023-05-565 Authorizing the Acquisition of Real Property from Main Street White Salmon, LLC

1. Presentation and Discussion
2. Action



Department Head: TR
 Clerk/Treasurer: SMP
 City Administrator: TR
 Mayor: *TR*

COUNCIL REPORT

Business Item

Consent Agenda

Needs Legal Review: Yes, completed
 Meeting Date: May 17, 2023
 Agenda Item: Resolution 2023-05-565 Authorizing Acquisition of Real Property from Main Street LLC
 Presented By: Troy Rayburn, City Administrator

Action Required:

Authorization for Mayor to sign closing documents to complete the Purchase and Sale Agreement that council authorized on March 23, 2022 with Main Street LLC

Motion for Business Item / Proposed Motion for Consent Agenda:

Authorize the Mayor to sign the necessary closing documents related to the Purchase and Sale Agreement with Main Street LLC.

Explanation of Issue:

On March 23, 2022 council authorized the Mayor to sign the Purchase and Sale Agreement with Main Street LLC to purchase a portion of property for the development of 10 townhomes that would create the opportunity for affordable home ownership. The project is in coordination with the development of the remainder of the property into market-rate lots intended for residential development, which received preliminary plat approval by the City Council on May 3, 2023. Upon acquisition of this property, the city will enter into a partnership with a housing agency, which will undertake the development, management, and administration of the homes for guaranteed long-term affordable home ownership. Though the PSA was already authorized by council, the title company wants express grant of authority to sign the closing documents.

Council Options:

City Council has the following options available at this time:

1. Accept the Staff Recommendation.
2. Revise the Staff Recommendation.
3. Refer this issue back to staff for additional work.
4. Take No Action
5. Other action as desired by council.

Fiscal Analysis:

The terms of the PSA stipulate that upon closing the city would make a cash payment of \$380,000, and also agree to:

- contribute to seller at closing the sum of \$84,000 toward the construction cost of the sewer line for a total cash contribution of \$464,000; and
- provide the seller at no additional cost twenty-one (21) residential water connections at a value of \$111,027.

Council approved the allocation of \$380,000 of ARPA funds for Affordable Housing on March 16, 2022. The 2023 adopted budget accounts for \$364,000 remaining housing funds (\$15,600 was paid in 2022 towards escrow costs). and this full allocation will go towards this purchase.

Council also approved the allocation of \$225,000 of ARPA funds for Infrastructure improvements on March 16, 2022. The match for the Spring Street Booster Pump Project in the amount of \$177,500 has been allocated in 2023 leaving \$47,500 remaining in this ARPA allocation. This \$47,500 can be dedicated to \$84,000 for sewer improvements and Wastewater Reserves (Fund 409) has available funding to cover the additional \$36,500. These 2 allocations will fulfill the total cash contribution needed for sewer improvements.

Recommendation of Staff/Committee:

Staff recommends authorizing the Mayor to sign the necessary closing documents.

Follow Up Action:

Upon closing, the city will work to finalize an agreement and partner with a housing agency to secure the stated intent outlined in the PSA and assure implementation of the affordable housing component.

City of White Salmon, Washington

RESOLUTION NO. 2023-05-565

A RESOLUTION of the City of White Salmon authorizing the acquisition of real property from Main Street White Salmon, LLC.

WHEREAS, at the regular meeting of the City Council held on May 17, 2023, after due deliberations, the Council decided that it would be in the City’s best interest to acquire the real property pursuant to the terms of the Agreement for Purchase of Real Estate as set forth in Exhibit “A”; and

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council to ratify acquisition of the real property as described. The Council hereby directs the Mayor or the Mayor Pro Temp to take all necessary steps to complete the acquisition, and further hereby authorizes the Mayor or Mayor Pro Temp to execute all documents which may be required on behalf of the City.

ADOPTED at a regular open public meeting this 17th day of May, 2023.

Marla Keethler, Mayor

ATTEST:

Stephanie Porter, Clerk/Treasurer

APPROVED AS TO FORM:

Shawn MacPherson, City Attorney

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE ("Agreement") is made and entered into as of _____, 2022 (the "Effective Date"), by and between Main Street White Salmon, LLC, a Washington limited liability company ("Seller") and CITY OF WHITE SALMON, a Washington municipal corporation ("Buyer")

In consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Purchase and Sale. Seller agrees to sell the Property defined below to Buyer, and Buyer agrees to purchase the Property from Seller, on an "AS IS" basis, upon the terms and conditions set forth in this Agreement, the real property identified as follows:

The Property shall consist of proposed Lots 22-31 as depicted on the Preliminary Plat Map attached hereto and incorporated herein as Exhibit A, consisting of approximately 0.665 of the 4.33 acres being known as Lot 2 of SP 2009-10 recorded under auditor file number 1093016 in Klickitat County, Washington, subject to Final Plat and Site Plan Approval as set forth in Title 17, Residential Planned Unit Development (R-PUD) of the White Salmon Municipal Code (WSMC), and all rights, development approvals, permits and/or reimbursables relating thereto (the "Property").

2. Purchase Price. Buyer agrees to purchase lots 22 through 31, as illustrated on Exhibit (A), at the sale price of Thirty-Eight Thousand and 00/100 dollars (\$38,000.00) per lot for a total cash sum of Three Hundred Eighty Thousand and 00/100 dollars (\$380,000.00). In addition, the Buyer agrees to contribute to Seller at closing the sum of Eighty-four Thousand and 00/100 dollars (\$84,000.00) toward the construction cost of the sewer line for a total cash contribution of Four Hundred Sixty-Four Thousand and 00/100 dollars (\$464,000.00). The Buyer also agrees to provide the Seller at no additional cost twenty-one (21) residential water connections at a value of One Hundred Eleven Thousand Twenty-Seven and 00/100 dollars (\$111,027.00) for a total value sale price of Five Hundred Seventy-Five Thousand Twenty-Seven and 00/100 dollars (\$575,027.00) in cash and connection credits to be paid to Seller. Buyer shall waive all City fees and costs in processing the R-PUD application including Buyer's legal, engineering and planning costs.

3. Payment of Purchase Price.

(a) Earnest Money Deposit. Within five (5) business days after the execution of this Purchase and Sale Agreement by both Buyer and Seller, Buyer will deposit with Escrow Agent the sum of Five Thousand Eight-Hundred and 00/100's Dollars (\$5,800) as an initial earnest money deposit (the "Earnest Money Deposit"). The Earnest Money Deposit will be fully refundable to Buyer in the event Buyer terminates within the Due Diligence Period (defined below) or any extension thereof, but if Buyer has not terminated, it shall become non-refundable

to Buyer (except if Seller defaults) upon expiration of the Due Diligence Period and Buyer shall instruct the Escrow Agent to release the Earnest Money Deposit to Seller within three (3) business days after expiration of the Due Diligence Period. The Earnest Money Deposit shall be fully applicable to the Purchase Price due to Seller at Closing.

(b) The final Purchase Price shall be paid in cash at Close of Escrow on the Property. The cash portion of the Purchase Price payable at the Close of Escrow, less applicable deposits and customary prorations, will be payable by certified check or wire transfer of funds through AmeriTitle Title Insurance Company, White Salmon, Washington (the "Escrow Agent"), at the Closing (as defined below). Seller will be required to deliver and convey the Property by statutory warranty deed free and clear of all existing debt, liens and encumbrances, except for permitted encumbrances as approved by Buyer in its sole and absolute discretion during the Due Diligence Period (as set forth below).

4. Condition of Title/Survey.

(a) Condition of Title. At the Close of Escrow, fee simple title to the Property shall be conveyed to Buyer by Seller by duly executed and acknowledged statutory warranty deed, subject only to the following matters ("Approved Title Conditions"): (a) a lien for real property taxes, not then delinquent and a lien for supplemental real property taxes, if any, assessed pursuant to applicable Governmental Regulations; (b) matters of title respecting the Property approved or deemed approved by Buyer in accordance with Paragraph 6(a)(i); (c) matters affecting the condition of title to the Property created by or with the written consent of Buyer.

(b) Survey. Buyer intends to obtain, at Buyer's expense, a current boundary survey, prepared by a Washington licensed surveyor (the "Survey"). If this Agreement is terminated and Seller desires to obtain a copy of and rights to the Survey, Seller will reimburse Buyer for Buyer's out of pocket cost of the Survey, and Buyer will then deliver the Survey and all of Buyer's rights in the Survey to Seller.

5. Escrow.

(a) Opening of Escrow. Buyer and Seller shall, within three (3) business days after the date of this Agreement, cause the Opening of Escrow by delivering a fully executed copy of this Agreement to Escrow Holder. The Close of Escrow shall occur on the Closing Date. Buyer and Seller shall execute and deliver to Escrow Holder any additional or supplementary instructions as may be necessary or convenient to implement the terms of this Agreement and close the transaction contemplated hereby, provided that they are not inconsistent with the terms of this Agreement.

(b) Construction Escrow. This sale contemplates Seller will have completed the subdivision of the lots described above, and upon Buyer's completion or waiver of Due Diligence items, Buyer will deposit the full Purchase Price in escrow to be held until completion and approval of the R-PUD Final Plat and Site Plan Approval creating the lots described above. Close of Escrow shall occur within twenty (20) days after final R-PUD Plat and Site Plan

approval. In the event Seller fails to obtain such approval within 180 days following execution of this Purchase and Sale Agreement, unless extended, this sale will terminate and Buyer shall be refunded its full Construction Escrow deposit.

6. Conditions to the Close of Escrow.

(a) Conditions Precedent to Buyer's Obligations. The Closing will occur within twenty (20) days after the expiration of the Due Diligence Period (the "Closing" also referred to herein as the Closing Date) unless extended as provided for herein. Buyer and Seller shall each have the right to extend the Closing and the Due Diligence Period for two successive thirty (30) day periods in order to confirm Buyer's ability to purchase the Property and obtain the Entitlements. Buyer's obligation to purchase the Property will also be subject to the following: (i) Seller shall have performed all covenants and obligations, all conditions shall be satisfied, and all representations and warranties shall be true and correct as of the Closing; (ii) the status of title shall be as required in the Purchase and Sale Agreement; (iii) Buyer shall have verified, and Seller shall have confirmed, that no material or adverse developments have occurred with respect to the Property since the execution of the Purchase and Sale Agreement; and (iv) Buyer shall have obtained all necessary financing and internal approvals for the purchase of the Property. Each of the foregoing approvals or verifications will be in the Buyer's sole and absolute discretion and may be waived by Buyer in its sole and absolute discretion.

(b) Each party will bear its own legal expenses in connection with the proposed transaction. Seller will provide Buyer with an ALTA extended coverage title insurance policy issued through the Escrow Agent. Seller will pay the premium attributable to a standard coverage owner's policy and Buyer will pay the difference for the extended coverage and the cost of any survey required for the ALTA extended coverage. Escrow fees will be shared equally between Seller and Buyer. Seller will pay the State of Washington excise tax on the sale and any other transfer taxes or fees. Current real property taxes will be prorated. If the Property is subject to deferred taxes for farm use, forest use, open space land (including any open space taxes assessed by Klickitat County), wildlife overlay or other qualified use classification, Seller will pay any such deferred taxes at Closing. Other Closing expenses will be charged or apportioned according to local custom.

(c) The Close of Escrow and Buyer's obligations with respect to the transaction contemplated by this Agreement are subject to the satisfaction, not later than the Closing Date (unless otherwise provided), of the following conditions:

(i) Title. Buyer shall have approved any matters of title as disclosed by the following documents and instruments ("Title Documents"): (A) a preliminary title report or title commitment and updates or supplements thereto issued by the Title Company at Seller's cost and expense with respect to the Property; and (B) legible copies of all documents, whether recorded or unrecorded, referred to in the preliminary title report (or title commitment). Seller shall deliver or request the Title Company to deliver the Title Documents to Buyer within ten (10) calendar days after the Opening of Escrow. Buyer shall have until the expiration of thirty (30) days (the "Title Review Period") to give Seller notice of Buyer's approval of the Title

Documents. Buyer shall advise Seller by written notice what exceptions to title, if any, are disapproved by Buyer ("Disapproved Exceptions") on or before the expiration of the Title Review Period. All monetary encumbrances other than nondelinquent ad valorem property taxes and installments of assessments not yet payable will be deemed disapproved, except, such taxes which are to be paid and/or prorated at Closing pursuant to this Agreement. If Buyer fails to so advise Seller by written notice of its approval or disapproval of the Title Documents by the expiration of the Title Review Period, the Title Documents shall be deemed approved and Buyer shall be obligated to take title to the Property subject to such title exceptions as referred to in the preliminary title report. Seller will have thirty (30) calendar days after receipt of Buyer's written notice to give Buyer written notice that (i) Seller will remove some or all of the Disapproved Exceptions, or (ii) Seller elects not to remove some or all of the Disapproved Exceptions. If Seller fails to give Buyer said notice before the expiration of the thirty (30) day period, Seller will be deemed to have elected not to remove all of the Disapproved Exceptions. Notwithstanding any attempt by Seller to eliminate or modify Disapproved Exceptions, Seller shall have no obligations to address or cure any objection made by Buyer. Notwithstanding anything to the contrary in this Agreement, Seller shall remove from title on or before the Closing Date all monetary encumbrances other than the "Approved Title Conditions." For the purposes of this Agreement, "Approved Title Conditions" shall mean those matters of title approved or deemed approved or waived by Buyer pursuant to this Agreement.

If Seller elects not to remove any nonmonetary Disapproved Exceptions, Buyer will have ten (10) additional calendar days after receipt of Seller's written notice (or Seller's failure to give Buyer written notice) as set forth above to notify Seller of Buyer's election either to proceed with the purchase and take the Property subject to those exceptions, or to terminate this Agreement. If Seller gives written notice that it will cause one or more nonmonetary exceptions to be removed but fails to remove any of them from title on or before the Closing Date, Buyer will have the right to either (i) elect to terminate this Agreement by written notice to Seller, or (ii) proceed with the purchase, with an abatement of the Purchase Price equal to the actual cost of removing from title those exceptions not approved by Buyer, and to take the Property subject to those exceptions. If Buyer elects to terminate this Agreement under this section, the escrow will be terminated, the Deposit plus all accrued interest less that portion of the Deposit released to Seller and deemed non-refundable to the Buyer must be returned immediately to Buyer, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement except as otherwise provided in this Agreement. If this Agreement is terminated through no fault of Seller, then Seller and Buyer shall share equally any costs of terminating the escrow and any cancellation fee for the preliminary commitment.

(ii) Buyer will begin its due diligence review of the Property upon execution of this Purchase and Sale Agreement by both parties and will have until April 1, 2022 to conclude its due diligence investigations of the Property (the "Due Diligence Period"). During the Due Diligence Period, Buyer (including its consultants, engineers and other designees) will have a reasonable right of entry to the Property in order to conduct all tests Buyer may deem necessary to determine the suitability of the Property; provided, however, such inspections will not unreasonably disturb the use of the Property by Seller and Buyer shall be responsible for

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repairing any damage caused by Buyer's inspections. Seller will cooperate fully in providing Buyer with any information reasonably necessary for Buyer's investigation and evaluation of the Property to the extent such information is reasonably available to Seller. The transaction will be contingent upon Buyer's satisfactory review (and receipt from the Seller within ten (10) business days following the execution of this Purchase and Sale Agreement, excepting therefrom item (f) below) of the following during the Due Diligence Period:

(iii) All books, records, and operating statements for the Property that reasonably relate to Buyer's due diligence inspections and review, including, without limitations, matters affecting valuation, environmental and development concerns, for the past three (3) years;

(iv) A current preliminary title commitment proposing to insure Buyer, on terms satisfactory to Buyer, for the Property together with legible copies of all documents referred to in the exceptions to the commitment. Such title commitment shall be ordered from the Escrow Agent;

(v) Any current surveys of the Property in Seller's possession or reasonably available to Seller;

(vi) All current contracts related to the Property, if any, and any proposed contracts being negotiated, if any;

(vii) All engineering reports, soils reports, plans, environmental reports and market studies for the Property in Seller's possession or reasonably available to Seller;

(viii) The results of any inspection studies for the Property that Buyer may have commissioned, including any Phase I environmental study and soils studies;

(ix) All zoning and entitlements and any system development charge credits and other development rights for the Property previously obtained by or granted to Seller; and

(x) Any other matters reasonably deemed necessary or appropriate by Buyer.

(xi) Entitlements. The purchase of the Property is subject to the condition that Buyer obtain all entitlements necessary to proceed with Buyer's contemplated development of the Property. This includes, without limitation, contracting with an affordable housing partner to construct the project for Low-Income Housing, including subjecting the Property to a Low-Income Housing Covenant Agreement substantially in the form attached as Exhibit "C". The sale of the Property is also subject to the condition that Seller obtains all entitlements necessary to proceed with Seller's contemplated development of Seller's adjacent R-PUD, and Final Plat and Site Plan Approval for the Property as contemplated herein, including, without limitation, a 20% density bonus for the designated low-income housing lots,

acceptance by the City of proposed green space, stormwater pond and related infrastructure as public improvements to be maintained by the City as reflected on the Preliminary Plat, and conditions of approval incorporating design standards acceptable to Seller, within Seller's sole discretion. The entitlements described above are referred to as the "Entitlements" in this Purchase and Sale Agreement. The parties will be deemed to have obtained all Entitlements when all submittals have been made, all hearings have been conducted, all final approvals (including City Council approvals) have been given or issued and all applicable periods of appeal have expired. Buyer's ability to obtain the Entitlements is a key inducement to Buyer's willingness and desire to purchase the Property and Buyer's inability to obtain all of the Entitlements for any reason may be cause for Buyer to terminate its interest in this Purchase and Sale Agreement. However, Buyer may, in its sole discretion, waive the condition of obtaining the Entitlements or any aspect thereof. Seller's ability to obtain its Entitlements is also a key inducement to Seller's willingness and desire to sell the Property and Seller's inability to obtain its Entitlements for any reason may be cause for Seller to terminate its interest in this Purchase and Sale Agreement and in any subsequent Purchase and Sale Agreement.

(xii) Inspections and Studies. On or before the expiration of the Due Diligence Period, Buyer shall have approved the results of any and all inspections, investigations, tests and studies (including, without limitation, investigations with regard to zoning, building codes and other Governmental Regulations, economic feasibility studies, market studies, environmental risk assessment studies and testing, appraisals, soils, seismic and geological reports) with respect to the Property, and approvals (including without limitation development agreements, site plan reviews, short plats, boundary line adjustments, planning approvals, grading permits, preliminary analysis and determination of utility services available to the Property, SWAPCA approval, obtaining and acceptable mitigated determination of non-significance, concurrency approvals) subject to the limitations of Section 24(r), as Buyer may elect to make or obtain as Buyer deems necessary or desirable, in its sole discretion. The cost of any such inspections, tests, studies and approvals shall be borne by Buyer. Notwithstanding the above, it is understood and expressly agreed to by the parties that no development agreements shall be executed, short plats approved, boundary line adjustments agreed to, or permits issued prior to the Close of Escrow.

(xiii) Representations, Warranties and Covenants of Seller. Seller shall have duly performed each and every agreement to be performed by Seller hereunder, and Seller's representations, warranties and covenants set forth in this Agreement shall be true and correct in all material aspects as of the Close of Escrow.

(xiv) No Material Changes. At the Close of Escrow, there shall have been no material adverse changes in the physical condition of the Property.

(xv) Seller's Deliveries. Seller shall have delivered the items described in Paragraphs 6(a) and 7(a). Buyer shall have approved the items described in Paragraph 6(a) as of the date required for such approval(s) as herein set forth.

(xvi) Title Insurance. As of the Close of Escrow, the Title Company

shall have issued or shall have committed to issue the Owner's Title Policy (as defined in Paragraph 9 below) to Buyer.

The conditions set forth in this Paragraph 6(c) are solely for the benefit of Buyer and may be waived only by Buyer. Buyer shall at all times have the right at its sole discretion to waive any condition. Such waiver or waivers shall be in writing to Seller. The waiver by Buyer of any condition shall not relieve Seller of any liability or obligation with respect to any representation, warranty, covenant or agreement of Seller. All approvals given by Buyer under this Paragraph 6(c) shall be in writing and the failure of Buyer to disapprove any matter requiring its approval under this Paragraph 6(c) by the time therefor shall be deemed approval thereof by Buyer and a waiver of that condition precedent to Buyer's obligation to close the transaction. During the time period preceding the expiration of the Due Diligence Period, Buyer will be conducting a review with respect to the Property so as to satisfy itself with respect to the condition of and other matters relating to the Property. During this time period, Buyer will have the absolute right to terminate this Agreement should the information and documents provided by Seller to Buyer or Buyer's evaluation and inspection of the Property result in Buyer's determination, in Buyer's sole and absolute discretion, that the Property is not suitable for Buyer's intended objectives. Buyer agrees to provide to Seller a written summary progress report of its efforts under this Agreement every sixty (30) days during the Due Diligence Period. Should Buyer elect to terminate this Agreement during the Due Diligence Period, Buyer agrees to assign or transfer to Seller all studies and reports from third party consultants or portions of such reports as Seller so desires, as to the existing physical condition of the Property or Property (e.g., soils studies, environmental reports, structural assessments, etc.). Neither the Seller nor the Buyer shall act or fail to act for the purpose of permitting or causing any condition to fail (except to the extent the Buyer, in its own discretion, exercises its right to disapprove any such items or matters). If Buyer elects to terminate this Agreement during the time period preceding the expiration of the Due Diligence Period, the escrow will be terminated, the Deposit must immediately be returned to Buyer less that portion of the Deposit previously released to Seller and deemed non-refundable to Buyer, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement, and except that each party shall pay one half (1/2) of the cost of terminating the escrow.

(d) Conditions Precedent to Seller's Obligations. The Close of Escrow and Seller's obligations with respect to the transactions contemplated by this Agreement are subject to the satisfaction not later than the Closing Date (unless otherwise provided) of the following conditions:

(i) Buyer's Deliveries. Buyer's delivery to Escrow Holder on or before the Closing Date, for disbursement as provided herein, the Purchase Price and the documents and materials described in Paragraph 6(c); and

(ii) Representations, Warranties and Covenants of Buyer. Buyer shall have duly performed each and every agreement to be performed by Buyer hereunder, and Buyer's representations, warranties and covenants set forth in this Agreement shall be true and

correct in all material aspects as of the Close of Escrow.

(iii) Covenants and Obligations. (A) Buyer shall have performed all covenants and obligations, all conditions shall be satisfied, and all representations and warranties shall be true and correct as of the Closing; (B) Seller shall have obtained all necessary Entitlements necessary to proceed with Seller's contemplated development of Seller's adjacent R-PUD, and Final Plat and Site Plan Approval for the Property as contemplated herein; (C) Buyer shall have provided adequate assurance that the affordable housing partner overseeing its project will accept the proposed residential covenants and restrictions set forth in Exhibit "D", (D) Buyer agrees to provide planning support through the R-PUD process; and (E) Buyer agrees to address any tree issues in keeping with White Salmon Municipal code and as covered in the R-PUD tool under WSMC 17.75.040.B.5.

The conditions set forth in this Paragraph 6(d) are solely for the benefit of Seller and may be waived only by Seller. Seller shall at all times have the right to waive any condition. Such waiver or waivers shall be in writing to Buyer. The waiver by Seller of any condition shall not relieve Buyer of any liability or obligation with respect to any representation, warranty, covenant or agreement of Buyer. All approvals given by Seller under this Paragraph 6(d) shall be in writing and the failure of Seller to disapprove any matter requiring its approval under this Paragraph 6(d) by the time therefor shall be deemed approval thereof by Seller. Neither the Seller nor the Buyer shall act or fail to act for the purpose of permitting or causing any condition to fail (except to the extent the Seller, in its own discretion, exercises its right to disapprove any such items or matters).

(e) Failure of Conditions to Close of Escrow. In the event any of the conditions set forth in Paragraph 6(a), Paragraph 6(c) or Paragraph 6(d) are not timely satisfied or waived, for a reason other than the default of Buyer or Seller under this Agreement:

(i) This Agreement, the Escrow and the rights and obligations of Buyer and Seller shall terminate, except as otherwise provided herein; and

(ii) Escrow Holder is hereby instructed to promptly return to Seller and Buyer any funds (including the Deposit and interest thereon unless Buyer is in default hereunder, and except to the extent the Deposit has been previously released to Seller as provided herein) and documents deposited by them, respectively, into Escrow which are held by Escrow Holder on the date of said termination (less, in the case of the party otherwise entitled to such funds, however, the amount of any cancellation charges required to be paid by such party under Paragraph 6(c)).

(f) Cancellation Fees and Expenses. In the event this Escrow terminates because of the non-satisfaction of any condition for a reason other than the default of Buyer or Seller under this Agreement, the cancellation charges required to be paid by and to Escrow Holder and the Title Company shall be borne one-half (1/2) by Seller and one-half (1/2) by Buyer, and all other charges shall be borne by the party incurring the same. In the event this Escrow terminates because of the default of Buyer or Seller, the defaulting party shall pay all

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such cancellation charges.

7. Deliveries to Escrow Holder.

(a) By Seller. Seller hereby covenants and agrees to deliver or cause to be delivered to Escrow Holder on or prior to the Closing Date the following instruments and documents:

(i) Deeds. A Statutory Warranty Deed ("Deed"), duly executed and acknowledged in recordable form by Seller, conveying the Property to Buyer subject to the Approved Title Conditions.

(ii) Non Foreign Certification. A certification duly executed by Seller ("FIRPTA Certificate"), setting forth Seller's address and federal tax identification number and certifying that Seller is a "United States Person" and that Seller is not a "foreign person" in accordance with and/or for the purpose of the provisions of Sections 7701 and 1445 (as may be amended) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

(iii) Proof of Authority. Such proof of Seller's authority and authorization to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individual(s) executing and/or delivering any instruments, documents or certificates on behalf of Seller to act for and bind Seller as may be reasonably required by the Title Company.

(iv) Other Documents. Any other documents or instruments reasonably required to consummate the transaction in accordance with this Agreement.

(b) By Buyer. Buyer hereby covenants and agrees to deliver or cause to be delivered to Escrow Holder on or prior to the Closing Date the following instruments and documents:

(i) Purchase Price. The Purchase Price and Buyer's share of closing costs and prorations.

(ii) Proof of Authority. Such proof of Buyer's authority and authorization to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individuals(s) executing and/or delivering any instruments, documents or certificates on behalf of Buyer to act for and bind Buyer as may be reasonably required by the Title Company.

(iii) Other Documents. Any other documents or instruments reasonably required to consummate the transaction in accordance with this Agreement.

(c) Form of Documents. The documents specified in Paragraph 7(a)(i) - (iv) shall be prepared by Seller and delivered to Buyer for review and approval not later than ten (10)

days prior to the Closing Date. The exact form and content of such documents shall be subject to good faith negotiation by Buyer and Seller, provided that such documents shall contain provisions consistent with this Agreement. The failure of Seller and Buyer to agree upon the form of such documents not later than the Closing Date shall constitute the failure of a condition of closing, and the provisions of Paragraph 6(a) shall govern.

8. Delivery of Possession to Buyer Upon Close of Escrow. Seller shall deliver possession of the Property to Buyer upon the Close of Escrow.

9. Title Insurance. At the Close of Escrow, Seller shall cause the Title Company to issue to Buyer, an owner's policy of title insurance ("Owner's Title Policy") with any title endorsements reasonably requested by Buyer, showing fee title to the Property vested in Buyer subject only to the Approved Title Conditions. The Owner's Title Policy shall be issued with liability in an amount equal to the Purchase Price.

10. Costs and Expenses. Seller shall pay (a) all premiums for the ALTA Standard coverage portion of Owner's Title Policy, (b) one half (1/2) of all Escrow fees and costs, (c) all excise/transfer taxes, and (d) Seller's share of prorations. Buyer shall pay for (i) all incremental premiums to obtain the ALTA Extended coverage portion of the Owner's Title Policy and any endorsements requested by Buyer (and/or required by Buyer's lender), (ii) all costs relating to a new or updated survey should Buyer undertake one, (iii) all costs and expenses charged by Buyer's lender or otherwise incurred in connection with Buyer acquiring the Property, (iv) any document recording charges, (v) one half (1/2) of all Escrow fees and costs, and (vii) Buyer's share of prorations. Buyer and Seller shall each pay all legal and professional fees and fees of other consultants incurred by Buyer and Seller, respectively. All other costs and expenses shall be allocated between Buyer and Seller in accordance with the customary practice in the County in which the Property is situated.

11. Prorations. The following prorations shall be made between Seller and Buyer at the Close of Escrow. Prorations shall be made as of 11:59 p.m. on the day preceding the Closing Date, based on the actual number of days in the month in which the Closing occurs and a three hundred sixty five (365) day year.

(a) Taxes. Real property taxes, special taxes, assessments, and other costs and expenses attributable to the Property shall be prorated as of the Close of Escrow.

(b) Method of Prorations. All prorations shall be made in accordance with customary practice in the County in which the Property is situated, except as expressly provided herein. Buyer and Seller agree to cause their accountants or other representatives to prepare a schedule of tentative prorations prior to the Closing Date. Such prorations, if and to the extent known and agreed upon as of the Close of Escrow, shall be paid by Buyer to Seller (if the prorations result in a net credit to the Seller) or by Seller to Buyer (if the prorations result in a net credit to the buyer) by increasing or reducing the cash to be paid by Buyer at the Close of Escrow. A copy of the schedule of prorations as agreed upon by the Buyer and Seller shall be delivered to the Escrow Holder at least three (3) business days before the Closing Date. Any

such prorations to be determined or not agreed upon as of the Close of Escrow shall be paid by Buyer to Seller, or by Seller to Buyer, as the case may be, in cash as soon as practicable following the Close of Escrow.

12. Disbursements and Other Actions by Escrow Holder. At the Close of Escrow, Escrow Holder shall promptly undertake all of the following in the manner hereinbelow indicated:

(a) Funds. Disburse all funds deposited with Escrow Holder by Buyer (including the Deposit and all accrued interest thereon) as follows:

(i) Deduct all items chargeable to the account of Seller pursuant to Paragraph 10.

(ii) If, as the result of the prorations and credits pursuant to Paragraph 11, amounts are to be charged to the account of Seller, deduct the total amount of such charges.

(iii) Disburse the costs and expenses payable to Buyer and Seller pursuant to Paragraph 10 to the parties entitled thereto.

(iv) Disburse the Purchase Price to Seller.

(v) Disburse the remaining balance of the funds, if any, to Buyer.

(b) Recording. Cause the Deeds and any other documents which the parties hereto may mutually direct to be recorded in the Official Records and obtain conformed copies thereof for distribution to Buyer and Seller.

(c) Title Policy. Direct the Title Company to issue the Owner's Title Policy to Buyer .

(d) Disbursement of Documents to Buyer. Disburse to Buyer one copy of the executed but unrecorded Deeds, the FIRPTA Certificate, and any other documents (or copies thereof) deposited into Escrow by Seller pursuant hereto. The original Deeds shall be delivered to Buyer after recordation.

(e) Disbursement of Documents to Seller. Disburse to Seller one copy of any other documents (or copies thereof) deposited into Escrow by Buyer pursuant hereto.

13. Seller's Representations, Warranties and Covenants.

(a) The following constitute representations, warranties and covenants of Seller to Buyer to the best of Seller's knowledge:

(i) Seller consists of a Washington limited liability company, and the

signor has the legal power, right and authority to enter into this Agreement and all documents required hereby to be executed by Seller and to consummate the transactions contemplated hereby. All requisite action (corporate, partnership or otherwise) has been taken by Seller in connection with the entering into this Agreement, the documents required hereby to be executed by Seller, and the consummation of the transactions contemplated hereby, and the documents executed by Seller that are to be delivered to Buyer at Close of Escrow will be in compliance with all provisions of all agreements and judicial orders to which Seller is a party or to which Seller or all or any portion of the Property is subject.

(ii) The individuals executing this Agreement and the documents required hereby to be executed by Seller on behalf of Seller (and the partners of Seller) have the legal power, right, and actual authority to bind Seller to the terms and conditions hereof and thereof. This Agreement and all documents required hereby to be executed by Seller are and shall be valid, legally binding obligations of and enforceable against Seller in accordance with their terms.

(iii) To the best of Seller's actual knowledge, there are no pending, threatened or contemplated actions, suits, arbitrations, claims or proceedings, at law or in equity, public administrative or regulatory, planning, or building code actions or proceedings, that might materially or detrimentally affect the Property, or the use or operation of the Property as it is now being used, or the ability of Seller to perform its obligations under this Agreement, or the value of the Property, nor has Seller received any written notice of and Seller has no actual knowledge of any material violations or investigations of violations of any applicable laws or ordinances affecting the Property that have not been corrected or resolved to the satisfaction of the agency or complaining party.

(iv) Seller is the legal fee simple titleholder of the Property and has good and marketable title to the Property, free and clear of all liens, encumbrances, claims, covenants, conditions, restrictions, easements, rights of way, or other matters, except as disclosed by the Title Documents or otherwise disclosed in writing to Buyer.

(v) Seller has not entered into any contracts for the sale, exchange or other disposition of the Property or any portion thereof, nor do there exist any rights of first refusal, options or other rights of any other party to purchase all or any portion of the Property. Notwithstanding the prior sentence, Seller may enter into other purchase and sale agreements with third parties which shall constitute back up offers to this Agreement, and which are contingent upon and can only close if this Agreement has been terminated as set forth in this Agreement.

(vi) There are no leases and, to Seller's knowledge, subleases, occupancies or tenancies in effect pertaining to the Property, and to Seller's actual knowledge, there are no written or oral agreements, promises, understandings or other commitments between Seller and any tenant or other person affecting the Property or with respect to the occupancy or use of the Property.

(vii) Seller will not, without the prior written consent of Buyer, convey all or any portion of the Property, and Seller will not, without the prior written consent of Buyer, subject the Property to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters.

(viii) To the best of Seller's knowledge, Seller has not received written notice of any special assessment or condemnation proceedings affecting the Property.

(ix) Seller is not a foreign person as defined in Section 1445 of the Internal Revenue Code.

(b) Restatement. Seller's representations and warranties made in this Paragraph 13, elsewhere in this Agreement, and in any Exhibit or in any document or instrument delivered pursuant hereto and prepared by or at the direction of Seller, shall be continuing and shall be true and correct in all material respects as of the Close of Escrow with the same force and effect as if remade by Seller at that time subject to the limitation set forth herein. The truth and accuracy of Seller's representations and warranties made herein in all such material respects, and the performance of all covenants of Seller contained in this Agreement, shall also constitute conditions for the benefit of Buyer to the closing of the transaction but shall not survive the Close of Escrow.

(c) "AS IS." Except for the representations and warranties expressly provided in Paragraph 13(a) above and/or elsewhere in this Agreement, Buyer agrees that if it approves the items reserved for its approval hereunder and completes the purchase of the Property (i) that it is purchasing the Property on an "AS IS, WHERE IS, WITH ALL FAULTS" basis and based on its own investigation of the Property; (ii) that neither Seller nor Seller's employees, agents, brokers, representatives, managers, property managers, asset managers, officers, principals, attorneys or contractors (collectively, "Seller's Representatives") have made any warranty, representation or guarantee, expressed, implied or statutory, written or oral, including, without limitation, any implied warranty of merchantability or fitness for any use or purpose or of reasonable workmanship, concerning the Property and/or the Property or any of the products located thereon or therein except as more fully provided in Paragraph 13(a); (iii) that neither Seller nor Seller's Representatives have made any warranty, representation, or guarantee, expressed, implied or statutory, written or oral, pertaining to the Property's compliance with any laws, ordinances, rules or regulations, federal, state or local except as more fully provided in Paragraph 13(a); (iv) that neither Seller nor Seller's Representatives have made any warranty, representation or guarantee, expressed, implied or statutory, written or oral, as to any government limitation or restriction, or absence thereof, pertaining to the Property, or as to the presence or absence of any latent defect, subsurface soil condition, environmental condition, hazardous substance, toxic waste or any other matter pertaining to the physical condition (title, mapping, construction, or otherwise) of the Property except as provided in Paragraph 13(a); and (v) Buyer covenants not to sue Seller, its members, brokers, agents and attorneys with regard to any and all rights, claims, obligations, damages, actions and causes of action Buyer may have now or hereafter under any existing or future federal, state or local environmental laws, including without limitation those laws referenced in the Glossary of Terms related to Hazardous

Materials. Buyer is or as of the Close of Escrow will be familiar with the Property and the Property and its suitability for Buyer's intended use. Except for the representations and warranties expressly provided in Paragraph 13(a) above and/or elsewhere in this Agreement, and those documents and instruments delivered pursuant hereto and prepared by or at the direction of Seller, all of Seller's and Seller's Representatives' statements, whenever made, are made only as an accommodation to Buyer and are not intended to be relied or acted upon in any manner by Buyer. Buyer acknowledges that Seller does not warrant or guarantee and will not be responsible for the reliability, usefulness, completeness, accuracy or suitability of any information, report, document or records, developed, submitted or prepared by any third party for Seller or Buyer in connection with the physical condition, value, potential value, use, suitability or operation of the Real Property. Buyer hereby expressly accepts the risk that any such information, report, document or record may not be reliable, useful, complete or accurate or otherwise suitable for Buyer's purposes. If prior to Close of Escrow, Seller obtains actual knowledge of a material change in any material fact warranted or represented herein, Seller shall notify Buyer; and Buyer shall have the right to cancel the escrow and terminate this Agreement, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement, and except that each party shall pay one-half (1/2) of the cost of terminating the escrow.

14. Buyer's Representations and Warranties.

(a) The following constitute representations and warranties of Buyer to Seller:

(i) Buyer is a Washington municipal corporation duly organized and validly existing under the laws of the State of Washington, and has the legal power, right and authority to enter into this Agreement and all documents required hereby to be executed by Buyer, and to consummate the transactions contemplated hereby. All requisite action (corporate, partnership or otherwise) has been taken by Buyer in connection with the entering into this Agreement, the documents required hereby to be executed by Buyer, and the consummation of the transactions contemplated hereby, and the documents executed by Buyer that are to be delivered to Seller at close of escrow will be in compliance with all provisions of all agreements and judicial orders to which Buyer is a party.

(ii) The individuals executing this Agreement and the documents required hereby to be executed by Buyer on behalf of Buyer have the legal power, right and actual authority to bind Buyer to the terms and conditions hereof and thereof. This Agreement and all documents required hereby to be executed by Buyer are and shall be valid, legally binding obligations of and enforceable against Buyer in accordance with their terms.

(b) Restatement. Buyer's representations and warranties made in this Paragraph 14 shall be continuing and shall be true and correct as of the Close of Escrow with the same force and effect as if remade by Buyer at that time. The truth and accuracy of Buyer's representations and warranties made herein shall also constitute a condition for the benefit of Seller to the closing of the transaction but shall not survive the Close of Escrow.

15. **Casualty Loss.** Following the occurrence of any event prior to the Closing Date, causing damage to or destruction of the Property or any portion of the Property, Seller shall promptly notify Buyer of such occurrence. Under any such circumstances the provisions of this Section 15 will apply. (a) If the amount of any casualty loss is not more than Fifty Thousand Dollars (\$50,000), the obligation of each party under this Agreement will continue, notwithstanding any such casualty, the rights to all insurance proceeds collectively by reason of such loss and not collected prior to closing will at closing be assigned to Buyer, and the Purchase Price will be paid without reduction by reason of such loss. Buyer and Seller will under such circumstances cooperate in settlement of such claims and any proceeds collected prior to closing will, consistent with the circumstances, be applied to any reconstruction or be offset against the portion of the Purchase Price paid at closing. (b) If the amount of any casualty loss is more than Fifty Thousand Dollars (\$50,000), Buyer and Seller will each have the right to terminate this Agreement in the manner specified by this Section 15. Such election may be exercised only by the party so electing to terminate giving written notice of termination to the other party within ten (10) days after receipt of actual notice of such casualty loss. Such notice of casualty will be effective to commence the running of this termination period only if such notice specifically provides that it is being given pursuant to this Section 15. Upon effective exercise of such termination election by either party, this Agreement will terminate as set forth in Section 6(c), and the Deposit will be returned to Buyer. If, in the event of any such casualty, neither party affirmatively exercises the right to terminate provided for by this Section 15, such right will lapse, and the provisions of Section 15(a) above will apply.

16. **Condemnation, Eminent Domain or Taking.** If, prior to the Close of Escrow, any material portion of the Property is taken or if the access thereto is reduced or restricted, by eminent domain or otherwise (or is the subject of a pending, threatened or contemplated taking which has not been consummated), Seller shall immediately notify Buyer of such fact. In such event, Buyer shall have the option, in its sole and absolute discretion, to terminate this Agreement upon written notice to Seller given not later than twenty (20) days after receipt of Seller's notice. If this Agreement is so terminated, the provisions of Paragraph 6(c) shall govern. If Buyer does not exercise this option to terminate this Agreement, or if there has not been a material taking by eminent domain or otherwise to give rise to such option, neither party shall have the right to terminate this Agreement, but the Seller shall assign and turn over, and the Buyer shall be entitled to receive and keep, all awards for the taking by eminent domain which accrue to Seller and the parties shall proceed to the Close of Escrow pursuant to the terms hereof, without modification of the terms of this Agreement and without any reduction in the Purchase Price. Unless or until this Agreement is terminated, Seller shall take no action with respect to any eminent domain proceeding without the prior written consent of Buyer. For purposes of this paragraph, the terms a "material portion" of the Property and a "material taking" means that the value of the portion of the Property so taken exceeds Fifty Thousand and No/100 Dollars (\$50,000.00).

17. **Indemnification.**

(a) **Indemnification of Buyer.** Seller hereby agrees to indemnify Buyer and, its principals and agents against, and to hold Buyer and its principals and agents harmless from,

all claims, demands, actions, causes of action, lawsuits, losses, damages, costs, expenses and other liabilities, including, without limitation, reasonable legal fees and disbursements, incurred by Buyer relating to the Property (other than environmental conditions, including without limitation the presence, discharge, release, removal or remediation of Hazardous Materials) which (i) arise or result from acts, occurrences or matters that took place prior to the Close of Escrow, (ii) arise or result from a breach by Seller of its agreements, covenants, representations or warranties hereunder, and/or (iii) acts, occurrences or matters the existence or occurrence of which constitute a violation of one or more representations, warranties or covenants of Seller hereunder, and do not relate to obligations or liabilities expressly assumed by Buyer hereunder.

(b) **Defense of Claims Against Buyer.** With respect to any claim for which Buyer is entitled to indemnification under Paragraph 17(a), Seller will be entitled to assume the defense of any litigation, arbitration or other proceeding, provided that Buyer may at its election and expense, retain separate counsel to participate in such defense, and provided further that in the event of any difference of opinion with respect to the strategy or other aspect of the defense of such action, Buyer's counsel will, after consultation with Seller's counsel, make the final determination. At Seller's request, Buyer will cooperate with Seller in the preparation of the defense to any such claim, provided that Seller reimburses Buyer for all reasonable expenses incurred in connection with such request.

(c) **Indemnification of Seller.** Buyer hereby agrees to indemnify Seller, its principals and agents against, and to hold Seller and its principals and agents harmless from, all claims, demands, actions, causes of action, lawsuits, losses, damages, costs, expenses and other liabilities, including, without limitation, reasonable legal fees and disbursements, incurred by Seller relating to the Property (other than environmental conditions, including without limitation the presence, discharge, release, removal or remediation of Hazardous Materials) which (i) arise or result from acts, occurrences or matters that take place on or after the Close of Escrow, or (ii) arise or result from a breach by Buyer of its agreements, covenants, representations or warranties hereunder, or (iii) arise on or after the Close of Escrow with regard to any obligations or liabilities assumed by Buyer hereunder.

(d) **Defense of Claims Against Seller.** With respect to any claim for which Seller is entitled to indemnification under Paragraph 17(c), Buyer will be entitled to assume the defense of any litigation, arbitration or other proceeding, provided that Seller may at its election and expense, retain separate counsel to participate in such defense, and provided further that in the event of any difference of opinion with respect to the strategy or any other aspect of the defense of such action, Seller's counsel will, after consultation with Buyer's counsel, make the final determination. At Buyer's request, Seller will cooperate with Buyer in the preparation of the defense to any such claim, provided that Buyer reimburses Seller for all reasonable expenses incurred in connection with such request.

18. **Notices.** All notices required or permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered either personally, by overnight delivery service, or by U.S. certified or registered mail, postage prepaid, and addressed to the parties at the respective addresses indicated below. Notices sent by overnight delivery service shall be deemed received

on the business day following the date of deposit with the delivery service. Mailed notices shall be deemed received upon the earlier of the date shown on the return receipt, or the second business day after the date of mailing.

TO SELLER:

Main Street White Salmon, LLC, a
Washington limited liability company
Attn: Nancy White, Member
40 Rocky Road
Trout Lake, WA , 98650-9713

WITH A COPY TO:

PEACHEY DAVIES & MYERS, PC
Attn: Lisa Knight Davies, Esq.
PO Box 417
Hood River, OR 97031

TO BUYER:

City of White Salmon
PO Box 2139
White Salmon WA 98672

WITH A COPY TO:

Kenneth B. Woodrich, PC
Attorney at Law
3205 F Street
Vancouver, WA 98663
(503) 288-2480

TO ESCROW HOLDER:

Amerititle Inc.
165 NE Estes
White Salmon WA 98672
(509) 493-1965

Notice of change of address shall be given by written notice in the manner detailed in this Paragraph 18.

19. Broker. Purchaser and Seller acknowledge and represent to each other that Mike Rockwell has been acting as a broker or advisor respecting the sale of the Property. Seller will indemnify, defend, and hold Purchaser harmless from any claims by any broker, advisor or any other third parties for brokerage or advisory fees or commissions of any kind arising out of actions or alleged actions or commitments made by Seller that form the basis of any such claims.

20. Required Actions of Buyer and Seller. Buyer and Seller agree to execute all such instruments and documents and to take all actions pursuant to the provisions hereof in order to consummate the purchase and sale herein contemplated and shall use their good faith efforts to accomplish the Close of Escrow in accordance with the provisions hereof.

21. Entry. Buyer and Buyer's agents and representatives shall have the right, at reasonable times and upon reasonable notice to Seller (both prior to and after the Contingency Date) to enter upon the Property, at Buyer's own cost, for any purpose in connection with its proposed purchase, development or operation of the Property, including, without limitation, the right to make such inspections, investigations and tests as Buyer may elect to make or obtain. From and after the execution of this Agreement, Buyer shall be entitled to communicate directly with the Tenant and the Authorities in connection with Buyer's proposed purchase, development

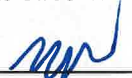
17 - AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

or operation of the Property. Buyer hereby indemnifies Seller from any and all liabilities and losses (including mechanics' and professional liens) arising out of any such entry by Buyer or its agents, or representatives which indemnification shall survive termination of this Agreement.

22. Legal and Equitable Enforcement of this Agreement.

(a) Default by Seller. In the event the Close of Escrow and the consummation of the transactions herein contemplated do not occur by reason of any default or breach by Seller, which default or breach is not cured within ten (10) business days after written notice is given by Buyer to Seller, then Buyer, as Buyer's sole remedy, shall be entitled to either: (i) a return of its Deposit and any other sums paid to Seller under this Agreement (whether or not previously released to Seller), or (ii) seek specific performance of this Agreement.

(b) Default by Buyer. IN THE EVENT THE CLOSE OF ESCROW AND THE CONSUMMATION OF THE TRANSACTION HEREIN CONTEMPLATED DOES NOT OCCUR AS HEREIN PROVIDED BY REASON OF ANY DEFAULT OR BREACH BY BUYER, BUYER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES WHICH SELLER MAY SUFFER. THEREFORE, IN THE EVENT OF ANY DEFAULT OR BREACH BY BUYER WHICH DELAYS THE CLOSE OF ESCROW OR INTERFERES WITH THE CONSUMMATION OF THE TRANSACTION, WHICH DEFAULT OR BREACH IS NOT CURED WITHIN TEN (10) BUSINESS DAYS AFTER WRITTEN NOTICE IS GIVEN BY SELLER TO BUYER, THIS AGREEMENT SHALL TERMINATE AND BUYER AND SELLER DO HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE DAMAGES THAT SELLER WOULD SUFFER IN THE EVENT THAT BUYER DEFAULTS AND FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY IS AND SHALL BE, AS SELLER'S SOLE AND EXCLUSIVE REMEDY (WHETHER AT LAW OR IN EQUITY), AN AMOUNT EQUAL TO THE ENTIRE DEPOSIT (WHICH INCLUDES ANY ACCRUED INTEREST THEREON) TOGETHER WITH ANY OTHER SUMS PAID OR RELEASED TO SELLER UNDER THIS AGREEMENT. SAID AMOUNT SHALL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY BUYER, ALL OTHER CLAIMS TO DAMAGES OR OTHER REMEDIES BEING HEREIN EXPRESSLY WAIVED BY SELLER. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER. UPON DEFAULT BY BUYER, THIS AGREEMENT SHALL BE TERMINATED AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO THE OTHER EXCEPT FOR THE RIGHT OF SELLER TO COLLECT SUCH LIQUIDATED DAMAGES FROM BUYER AND ESCROW HOLDER.



SELLER'S
INITIALS



BUYER'S
INITIALS

23. Miscellaneous.

(a) **Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(b) **Waivers.** No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act.

(c) **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto. Buyer shall not assign or transfer any rights under this Agreement to a third party (except to a housing authority or trust) without the express written consent of Sellers which consent may not be unreasonably withheld.

(d) **Attorneys' Fees.** In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants, agreements or provisions on the part of the other party arising out of this Agreement, or for a declaration of the rights of the parties under this Agreement, for injunctive relief, or any other action arising out of this Agreement, or the transaction contemplated hereby, then in that event the prevailing party shall be entitled to have and recover from the other party all costs and expenses of the action or suit, including actual attorneys' fees, and any other professional fees resulting therefrom.

(e) **Entire Agreement.** This Agreement (including all Exhibits and the Glossary of Terms attached hereto) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties thereto.

(f) **Time of Essence.** Seller and Buyer hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and the failure to timely perform any of the terms, conditions, obligations or provisions hereof by either party shall constitute a material breach of this Agreement by the party so failing to perform.

(g) **Construction.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the

masculine shall include the feminine and the neuter, and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared the same. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference. In the event the date on which Buyer or Seller is required to take any action under the terms of this Agreement is not a Business Day, the action shall be taken on the next succeeding Business Day.

(h) No Third Party Beneficiary. This contract is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary.

(i) Disclaimer, Duty to Disclose. As to any reports or other materials provided to Buyer and prepared by third parties (but expressly excluding rent rolls and other financial data provided to Buyer by Seller), Seller is not warranting (and will not be liable or responsible for) the accuracy, fitness or usability of such reports or materials or any recommendations or conclusions stated therein. Representations and warranties of Seller in this Agreement that are made "to the knowledge of Seller" (or using words of similar effect) are made to the best of Seller's actual knowledge, without independent investigation or examination. If Seller obtains actual knowledge prior to the Close of Escrow of a fact which would make any of the representations and warranties of Seller in this Agreement false or inaccurate in any material respect, Seller will notify Buyer of such fact. Seller will not be liable to Buyer for the inaccuracy of any such representations and warranties after the Closing Date unless Seller had actual knowledge of the same on the Closing Date that such representation or warranty by Seller was false or Seller failed to disclose to Buyer the fact known to Seller which made the representation or warranty false.

(j) Negation of Agency, Partnership. No provision of this Agreement or subsequent conduct of the parties shall be construed as making either party an agent, principal, partner or joint venturer with the other party, or as making either party responsible for the payment or reimbursement of any costs incurred by the other party in pursuing this transaction if this Agreement is terminated for any reason (other than as otherwise expressly set forth in this Agreement concerning responsibility for costs).

(k) This Agreement shall not bind Seller or Buyer as an offer or an agreement unless signed by the party sought to be bound. The transmittal of an unexecuted draft of this document for purposes of review shall not be considered an offer to enter into an agreement.

(l) No Representation on Tax Consequences. Buyer and Seller have not made and are not making any representations to the other concerning any of the tax effects of the transactions provided for in this Agreement. Buyer and Seller shall not be liable for or in any way responsible to the other because of any tax effect resulting from the transactions provided for in this Agreement.

(m) **Governing Law.** The parties hereto acknowledge that this Agreement has been negotiated and entered into in the State of Washington. The parties hereto expressly agree that this Agreement shall be governed by, interpreted under and construed and enforced in accordance with the laws of the State of Washington.

(n) **Counterparts.** This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one (1) and the same instrument.

(o) **Confidential Information; Publicity by Buyer.** The parties recognize and acknowledge Buyer is a Washington public agency governed by the Washington Open Public Records Act, RCW Ch. 42.56 and Buyer must comply strictly with that law. To the extent permitted, Buyer shall respect and observe the confidential nature of financial, environmental and other reports and information supplied by Seller or obtained by Buyer concerning the Property and (if this transaction does not close) return or deliver such written reports (including any copies thereof) to Seller. To the extent permitted, Buyer will not disclose publicly (except as required by law) any confidential information of Seller, and the parties will reasonably cooperate prior to termination of this Agreement or Close of Escrow concerning press releases by Buyer or other public disclosure by Buyer of the pendency of this transaction.

(p) **Cooperation.** While this Agreement is in effect, Seller shall cooperate with Buyer in its efforts to secure any and all governmental decisions, approvals, and/or permits which Buyer deems necessary or appropriate for Buyer's intended Property on terms and conditions satisfactory to Buyer in its sole and absolute discretion. Such decisions and approvals may include, but are not limited to, those related to favorable development agreements, planned unit developments, zoning interpretations or use permits, binding or nonbinding site plans, short plats, boundary line adjustments, roads, streets, utilities, open spaces, dedications, easements, restrictions, and covenants. Seller's cooperation shall include, promptly at Buyer's request from time to time, or as the case may be, the signing and delivering to Buyer authorizations as may be required by jurisdictions to file all applications for such decisions and approvals. In no event shall Seller become or be required to become liable for payment of any costs or expenses in connection with the foregoing. Seller shall have no obligation to agree to or bind the Property to any development agreement, subdivision, plat or planned unit development, binding site plan, boundary line adjustment, dedication, easement, covenant, restriction, permit or any other decision, approval or item which in fact affects, binds or encumbers the Property prior to Close of Escrow nor may any grading, construction or similar activity (other than testing and sampling and surveying during the Contingency Period) occur on or prior to the Closing Date, and all such actions shall be expressly conditioned upon Buyer's acquisition of the Property and the Close of Escrow and affected post-closing. Buyer shall have no authority to apply for a change to the comprehensive plan or zoning designation of the Property without the prior written approval of seller in each instance.

[Signatures appear on next page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates indicated below.

SELLER:

Main Street White Salmon, LLC, a Washington limited liability company

By: Nancy White
Title: Manager
Date: 4-13-2022

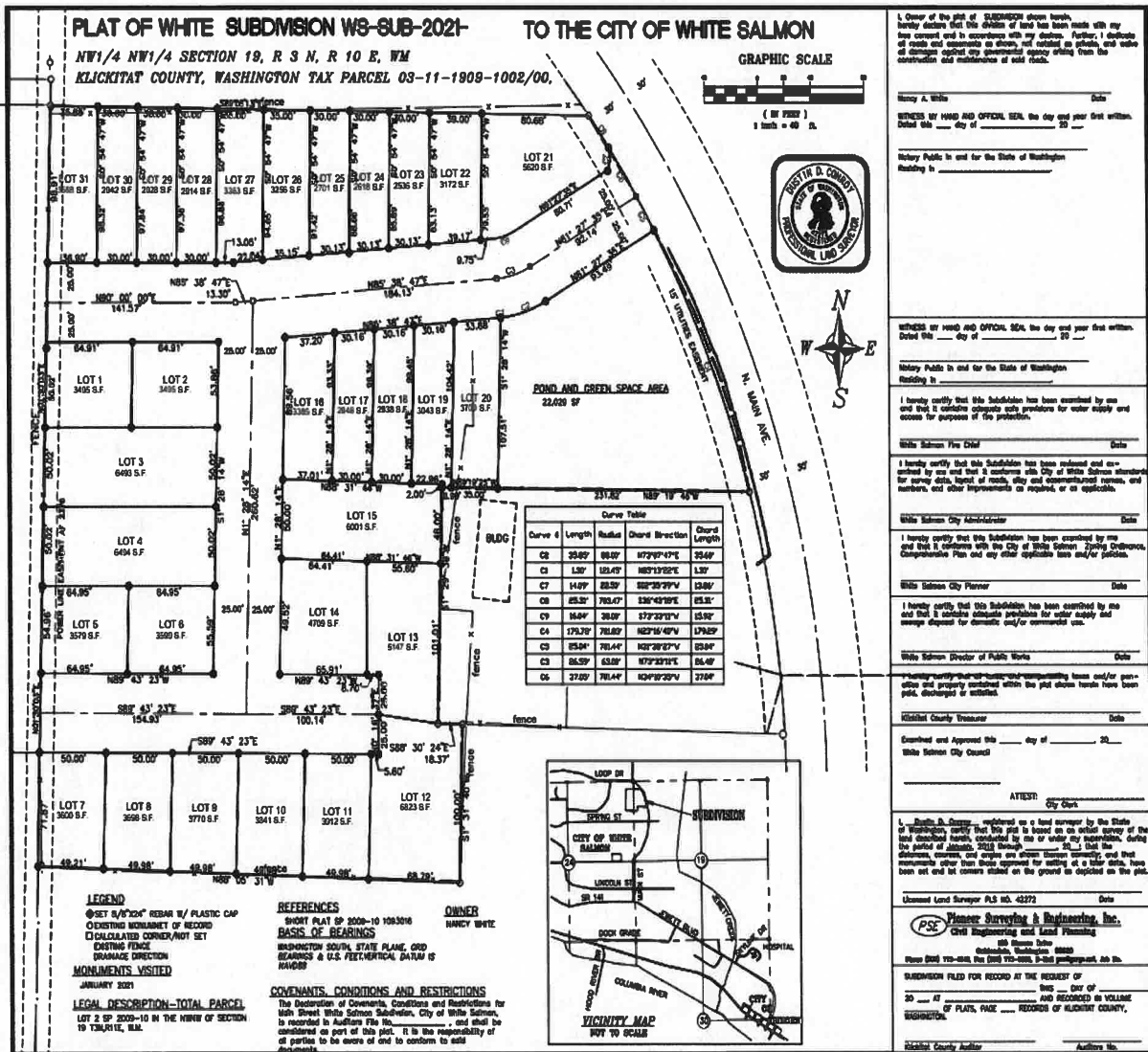
BUYER:

**CITY OF WHITE SALMON, a
Washington Municipal Corporation**

By: Marla Keethler
Title: Marla Keethler, its Mayor
Date: April 6, 2022

EXHIBIT A

(Property Map)



I, Owner of the plat of SUBDIVISION shown herein, hereby declare that the division of land has been made with my best consent and in accordance with my duties. Further, I declare that all records and documents are shown, and contain no errors, and value of damages against any governmental agency arising from the construction and maintenance of said roads.

Witness my hand AND OFFICIAL SEAL the day and year first written.
 Dated this ____ day of _____, 20__

Notary Public in and for the State of Washington
 Residing in _____

Witness my hand AND OFFICIAL SEAL the day and year first written.
 Dated this ____ day of _____, 20__

Notary Public in and for the State of Washington
 Residing in _____

I hereby certify that this Subdivision has been examined by me and that it conforms with the City of White Salmon standards for survey data, layout of roads, utility and communication systems, and numbers, and other improvements as required, or as applicable.

White Salmon Fire Chief _____ Date _____

I hereby certify that this Subdivision has been reviewed and approved by me and that it conforms with City of White Salmon standards for survey data, layout of roads, utility and communication systems, and numbers, and other improvements as required, or as applicable.

White Salmon City Administrator _____ Date _____

I hereby certify that this Subdivision has been examined by me and that it conforms with the City of White Salmon, zoning Ordinance, Comprehensive Plan and any other applicable laws and/or policies.

White Salmon City Planner _____ Date _____

I hereby certify that this Subdivision has been examined by me and that it conforms with the City of White Salmon, zoning Ordinance, Comprehensive Plan and any other applicable laws and/or policies.

White Salmon Director of Public Works _____ Date _____

I hereby certify that all easements, encroachments, liens and/or partition and property involved within the plat shown herein have been paid, discharged or satisfied.

Wahkiakum County Treasurer _____ Date _____

Examined and Approved this ____ day of _____, 20__
 White Salmon City Council

ATTEST: City Clerk

I, South D. County, registered as a land surveyor by the State of Washington, certify that this plat is based on an actual survey of the land described herein, conducted by me or under my supervision, during the period of January 1, 2018 through _____, 20__ that the dimensions, bearings, and angles are correct based on the best available information, and that the monuments thereon have been approved for setting at a later date, have been set and are correct shown on the ground as depicted on this plat.

Unusual Land Surveyor: P.S. NO. 42272 Date _____

PSE Pioneer Surveying & Engineering, Inc.
 Civil Engineering and Land Planning
 800 South 14th
 White Salmon, Washington 98689
 Phone (509) 739-2828, Fax (509) 739-2828, E-mail: pse@pseinc.com

SUBDIVISION FILED FOR RECORD BY THE REQUEST OF _____ THIS ____ DAY OF _____, 20__ AT _____ AND RECORDED IN VOLUME _____ OF PLATS, PAGE ____ RECORDS OF KLIKIKAT COUNTY.

Wahkiakum County Auditor _____ Auditor No. _____

EXHIBIT "B"

[Schedule]

Signed LOI

No later than March 10

Purchase & Sale Agreement for Council Review/Approval

Special meeting scheduled between March 10-March 23

Due Diligence Period

Begins no later than March 10; concludes April 1

R-PUD Application Review

Preliminary schedule:

1. R-PUD revisions adopted April 6 or 20
2. Hold Neighborhood Meeting end of April/early May and submit application
3. Take R-PUD application before Planning Commission May 11 or 25, Council June 1 or 15 for approval.

Heritage Tree Review (if applicable)

This is covered in the R-PUD tool under 17.75.040.B.5. Shouldn't present any problems that can't be resolved.

Initial Deadline for Closing

April 20

Optional 1st Extended Deadline for Closing

May 20

Optional 2nd Extended Deadline for Closing

June 20 (technically ends Sun 6/19 but extending to closest business day)

EXHIBIT "C"

[Draft Low Income Housing Covenant Agreement]

Grantor/Borrower: [Name of housing authority/trust]

Beneficiary: City of White Salmon

Legal Description: (Attachment I. Legal descriptions for each parcel)

Address: [address] and no situs address

Assessor's Tax ID #: [tax id]

This Affordable Housing Covenant Agreement ("Covenant") is made between [Name of housing authority/trust] ("Grantor"), a Washington [form of organization], with its mailing address at [address] and City of White Salmon ("Beneficiary"), in consideration for the donation of the above referenced parcels for Affordable Housing. The donation is intended to create and maintain affordable housing on the donated parcels for the term of this Covenant.

This Covenant will be filed and recorded in the official public land records of Klickitat County, Washington, and shall constitute a restriction upon the use of the property described herein, subject to, and in accordance with, the terms of this Covenant for a required housing affordability period of thirty (30) years.

The covenants contained herein are to be taken and construed as covenants running with the land and shall pass to, and be binding upon, the Grantor, and its transferees, purchasers, assignees, lien holders, heirs, grantees, lessees, or any other successors in interest of or to the Property, beginning April 1, 2022, and continuing from that date for thirty (30) years until April 30, 2052. Each and every contract, deed or other instrument covering or conveying the Property, or any portion thereof, shall be conclusively held to have been executed, delivered and accepted subject to such covenants, regardless of whether such covenants are set forth in such contract, deed, or other instruments.

NOW, THEREFORE, it is hereby covenanted that, beginning on April 1, 2022, until April 30, 2052, is as follows:

The Grantor will preserve or develop this property as long-term affordable housing to individuals with incomes at or below eighty percent (80%) or less of the area median income in Klickitat County, Washington, adjusted for family size, as estimated from time to time by the United States Department of Housing and Urban Development (HUD). If HUD ceases to provide such estimates of median income, then median income shall mean such comparable figures for Klickitat County, Washington, published or reported by a federal, state, or local agency as the County shall select. Income shall be determined prior to occupancy. Rents charged to tenants shall not exceed High HOME Rents for the unit size.

In keeping with this affordability responsibility, Grantor shall create and keep all records and make any reports relating to compliance with this Covenant Agreement that City of White Salmon may reasonably require, such as annual home-sale monitoring reports, including homeowner income, family size, unit size, and household type.

In addition, Grantor agrees that City of White Salmon, may at any reasonable time and upon reasonable notice go onsite to review the Grantor's files and/or inspect matters consistent with this Covenant, in accordance with applicable law.

The Grantor will provide safe and sanitary housing and will comply with all State and local land use, environmental, habitat, erosion control, property, housing codes, licensing requirements and other requirements regarding the condition of the structure and the operation of the project in the jurisdiction in which the housing is located.

DEFAULT: If a violation of this Covenant occurs, City of White Salmon may, after 30 days' notice to the Grantor at the address indicated in this document, institute and prosecute any proceeding at law or equity to abate, prevent, or enjoin any such violation or to compel specific performance by the Grantor of its obligations hereunder or, in the case of a willful disregard or violation of the terms of this Covenant, such other and further remedies the Court shall impose, including, without limitation, the City's right to seek reversion of the property back to the City or compensation for damages equal to the value of the donation given to Grantor; provided that, the Grantor shall not be required by any provision herein to evict a residential tenant. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage, or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time. In that event, the prevailing party shall be entitled to its attorney fees and costs at trial and on appeal.

IN WITNESS HEREOF [Name of housing authority/trust], a Washington [form of organization] has executed this Covenant on the ____ day of _____, 2022.

GRANTOR: [Name of housing authority/trust], a Washington [form of organization]

By: _____

Its: _____

Print Name: _____

STATE OF Washington)

) SS.

COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of [Name of housing authority/trust], a Washington limited partnership, to be the free and voluntary act and deed of such limited partnership on behalf of such limited partnership for the uses and purposes mentioned in the instrument.

DATED: _____
Notary Public in and for the State of Washington
residing in the county of _____
My appointment expires: _____

EXHIBIT "D"

Restrictive Covenants

Restrictive Covenants-Use and Dwelling Standards

1. Land Use and Building Type

- a. No lot shall be used except for primary long-term residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than single or two-family dwellings (duplexes and townhomes) not to exceed height limitations hereinafter specified, accessory structures permitted outright or by conditional use within base zoning or otherwise approved as part of the R-PUD process, and private garages for no more than two cars.
- b. The provisions of this section shall not be deemed to prohibit the right of any home builder to construct residence on any lot, to store construction materials and equipment on said lots in the normal course of construction and to use a single family residence as a sales office for purposes of sales in this subdivision.

2. Height Restrictions

All dwellings and structures constructed on any lot shall be no more than two- story construction and conform to the height limitation of the applicable zoning requirements.

3. Dwelling Size

All multi-level dwellings shall have minimum total square footage that aligns with existing city code at time of construction.

File Attachments for Item:

C. Public Hearing - Ordinance 2023-05-1141 Creating WSMC 5.10 Tenant Protections

1. Presentation
2. Public Hearing
3. Discussion



Department Head:	TR
Clerk/Treasurer:	SMP
City Administrator:	TR
Mayor:	MK

COUNCIL REPORT

Business Item

Consent Agenda

Needs Legal Review:

Yes, Completed

Meeting Date:

May 17, 2023

Agenda Item:

Ordinance NO: 2023-05-1141 Relating to Proposed Tenant Protection Program

Presented By:

Troy Rayburn, City Administrator
Shawn MacPherson, City Attorney

Action Required:

No action required. Public Hearing and First Reading of this proposed code change.

Motion for Business Item / Proposed Motion for Consent Agenda:

Motion to carry over Ordinance NO: 2023-05-1141 relating to proposed tenant protection program to date to be determined.

Explanation of Issue:

The City of White Salmon proposes tenant protections to assist in minimizing the growing burden associated with housing for renters.

It has become increasingly difficult for renters, many of which are working households, to secure affordable rental housing. The recommended protections are an effort to:

- Allow for flexibility in upfront costs to alleviate the cost-burden on new or relocating
- Create some security around anticipated rent changes or increases
- Provide timelines that favor tenants facing eviction with a longer notice window

See attached technical memorandum from City Attorney Shawn MacPherson for additional background information.

Council Options:

None at this time.

Fiscal Analysis:

Possible Klickitat County Court Fees due to enforcement. City attorney will address.

Recommendation of Staff/Committee:

No specific recommendation(s) at this time.

Follow Up Action:

No specific follow up at this time.

DRAFT
CITY OF WHITE SALMON
ORDINANCE NO. 2023-05-1141

AN ORDINANCE CREATING WSMC CHAPTER 5.10 TENANT PROTECTIONS TO THE MUNICIPAL CODE OF THE CITY OF WHITE SALMON, WASHINGTON.

WHEREAS, the City Council has seen the impacts of the rental business in the nation, the State of Washington and locally in the City of White Salmon; and

WHEREAS, it has become increasingly difficult for renters, a majority of which are working households, to secure affordable rental housing in the City of White Salmon; and

WHEREAS, the City of White Salmon proposes tenant protections to assist in minimizing the growing burden associated with housing for renters; and

WHEREAS, the City Council has held a Public Hearing for Ordinance 2023-05-1141 at its regularly scheduled meetings May 17, 2023, and **?**, 2023; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITE SALMON DO ORDAIN AS FOLLOWS:

SECTION 1. ADDING CHAPTER 5.10 Tenant Protections. White Salmon Municipal Code (WSMC) Chapter 5.10 Tenant Protections is hereby added.

WSMC 5.10 Tenant Protections

5.10.010 Purpose and Intent

The purpose of this chapter is to establish regulations supporting housing security to reduce houselessness and to establish standards and enforcement mechanisms as they relate to rental housing within the municipal boundaries of the City of White Salmon. It is the intent of the White Salmon City Council to maintain healthy, vibrant and diverse neighborhoods within the City of White Salmon. The regulations contained in this chapter balance the needs of the landlord, tenant, and the City of White Salmon to ensure safe, healthy, and thriving rental housing within the City's municipal boundaries. The City recognizes that the renting of residential property is a commercial venture where owners and landlords must evaluate risk, profit, and loss. Providing housing for White Salmon's residents directly impacts quality of life at the most basic level, and therefore requires regulations to ensure that this commercial venture is equitably undertaken. This chapter helps ensure housing security for current and future residents within the City of White Salmon.

5.10.020 Definitions

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

- A. "Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person's disability. An assistance animal is not a pet.
- B. "Days" means calendar days unless otherwise provided.
- C. "Director" means the City Administrator, or the City Administrator's designee.
- D. "Dwelling unit" means a structure or part of a structure used as a home, residence, or sleeping place by one or more persons maintaining a common household, including, but not limited to, single-family residences and units of multiplexes, apartment buildings, mobile homes, and rooms for which occupancy is authorized by a written or oral rental agreement.
- E. "Landlord" means a landlord as defined in and within the scope of RCW [59.18.030](#) and RCW [59.18.040](#) of the Residential Landlord Tenant Act of 1973 ("RLTA") in effect at the time the rental agreement is executed or occurs. As of the effective day of this ordinance, the RLTA defines "landlord" as "the owner, lessor, or sub- lessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sub-lessor including, but not limited to, an agent, a resident manager, or a designated property manager."
- F. "Occupancy" means the formal designation of the primary purpose of the building structure or portion thereof.
- G. "Owner" means the owner of record as shown on the last Klickitat County tax assessment roll or such owner's authorized agent.
- H. "Rent" or "rental amount" means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. These terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees. PROVIDED, however, that if, at the commencement of the tenancy, the landlord has provided an installment payment plan for nonrefundable fees or deposits for the security of the tenant's obligations and the tenant defaults in payment, the landlord may treat the default payment as rent owing.
- I. "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.
- J. "Tenant" means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

5.10.030 Rent Increase Notification

- A. A landlord may not increase a tenant's rent by more than five percent of the rent unless the landlord has provided the tenant with notice of the rent increase at least 120 days before such increase takes effect.
- B. A landlord may not increase the rent of a tenant by more than 10 percent of the rent unless the landlord has provided the tenant with notice of the rent increase at least 180 days before such increase takes effect.
- C. Pursuant to RCW [59.18.140](#), if the rental agreement governs a subsidized tenancy where the amount of rent is based on the income of the tenant or circumstances specific to the subsidized household, a landlord shall provide a minimum of 30 days' prior written notice of an increase in the amount of rent to each affected tenant.
- D. Any notice of a rent increase required by this section must be served in accordance with RCW [59.12.040](#). Notice of any rental increase of five percent or less may be served in accordance with RCW [59.12.040](#).

5.10.040 Pet Damage Deposits

- A. Except as provided in subsection B of this section, a landlord may require payment of a pet damage deposit that may not exceed 25 percent of one month's rent, regardless of the time when the pet damage deposit is paid.
- B. Exceptions
 - 1. A landlord may not require a pet damage deposit for an animal that serves as an assistance animal for the tenant. This prohibition does not prohibit a landlord from bringing an action for damages resulting from damage to the landlord's property caused by the tenant's assistance animal.
 - 2. A landlord may not charge a pet damage deposit in that type of subsidized housing where the amount of rent is set based on the income of the tenant. This exception for subsidized housing does not include tenancies regulated under Section 8 of the Housing Act of 1937, [42 U.S.C. Sec. 1437f](#), commonly known as the choice voucher program.
- C. If the tenant's pet's occupancy begins at the beginning of tenancy, the amount of the pet damage deposit must be specified in a rental agreement. If the tenant's pet's occupancy begins after the beginning of the tenancy, the amount of the pet damage deposit must be specified in an addendum to the rental agreement. The tenant may elect to pay the pet damage deposit in three consecutive, equal monthly installments that begin when the tenant's pet first occupies the rental unit

or the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule, the schedule must be described in the rental agreement or in an addendum to the rental agreement.

D. A landlord may not keep any portion of the pet damage deposit for damage that was not caused by a pet for which the tenant is responsible. Not later than 21 days from the end of the tenancy, the landlord shall return to the tenant any portion of the pet damage deposit not applied to the costs of remediating damage caused by a pet for which the tenant is responsible, or the landlord shall provide to the tenant an itemized list of damages if a portion or the entirety of the deposit is retained for damage caused by a pet for which the tenant is responsible.

E. Other than the pet damage deposit authorized by subsection A of this section, a landlord may not charge the tenant any fee for keeping a pet.

5.10.050 Limits of Move in Fees

A refundable security deposit or last month's rent may be charged by a landlord before a tenant takes possession of a dwelling unit. Landlords are prohibited from charging tenants any other non-refundable fees or one-time fees at the beginning of the tenancy, including a fee to hold a unit prior to the tenant taking possession. The amount of the refundable security deposit or last month's rent may not exceed one month's rent, except in that type of subsidized housing where the amount of rent is set based on the income of the tenant. The exception for subsidized housing does not include tenancies regulated under Section 8 of the Housing Act of 1937, [42 U.S.C. Sec. 1437f](#), commonly known as the choice voucher program. A landlord is prohibited from charging or accepting any move in fee in excess of that allowed in this section.

5.10.060 Compliance and Enforcement

SECTION 3. SEVERABILITY. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five (5) days after passable and publication of an approved summary consisting of the title.

PASSED in regular session this **?**th day of **?**, 2023.

Marla Keethler, Mayor

Stephanie Porter, Clerk/Treasurer

Approved as to form:

Shawn MacPherson, City Attorney

DRAFT

MEMORANDUM

TO: City of White Salmon City Council

FROM: Kelly Hickok and City Attorney Shawn MacPherson – Knapp, O’Dell, & MacPherson, PLLC

RE: City of White Salmon - Proposed Tenant Protections
City Council Hearing of May 17, 2023

DATE: May 9, 2023

The City of White Salmon proposes tenant protections with the goal of reducing homelessness and establishing standards and enforcement mechanisms for rental housing. Because rent control is illegal in Washington under RCW 35.21.830, White Salmon is among a growing group of cities that are taking alternate measures to help residents deal with the rising rents, such as limiting move-in fees and allowing payment plan options. The proposed tenant protections are likely to prevail in court against challenges by landlord associations. Other cities such as Olympia, Seattle, and Burien have amended their municipal code to include similar tenant protections that have been upheld in court.

The tenant protections proposed by White Salmon are: 1) to limit pet deposits to 25% of one month’s rent and allow tenants the ability to pay the deposit over 3 consecutive monthly payments; 2) to limit move-in costs to one month’s worth of rent (includes security deposit and/or last month’s rent), 3) to require 120 days’ notice for rent increases over 5% and 4) to require 180 days’ notice for rent increases over 10%.

The proponents of tenant protections like these argue that they stabilize and increase access to rental housing. The limits on pet deposits and move-in costs, as well as the payment plan option, alleviate some of the initial financial burdens on tenants who are looking to relocate and give tenants more flexibility with their finances. The required notice provisions help tenants by making rent amounts and increases in rent more predictable.

Landlords who oppose these types of regulations argue that the limit on move-in costs prevents housing providers from recouping rising costs (like property taxes) and limits the amount of money able to be recouped to cover costs of maintenance. The landlords may end up compensating for lower profits by raising rents or by requiring higher credit scores for applicants, contrary to the intended goal of the ordinance.

Landlord associations like the Rental Housing Association of Washington have challenged similar tenant protections in court. In *Rental Housing Association (RHA) v. City of Seattle*, the RHA argued that Seattle’s Ordinance 125222 was a violation of Washington state’s ban on rental control (RCW 35.21.830) and the takings clause. RCW 35.21.830 preempts local governments from enacting controls on rent or regulating the amount of rent. The court determined that the definition of “rent” in RCW 35.21.830 is “periodic payments made by the tenant to the landlord

at fixed intervals for the purpose of using the landlord's property." The court determined that security deposits and other move-in costs did not fall under the definition of "rent" because they are not dependent on the length of tenancy and are considerations for the right to move onto the property. Order Granting City of Seattle's Cross Mot. for Summ. J. and Den. RHA's Cross Mot. for Summ. J. *RHA v. City of Seattle*, No. 17-2-13662-0 (2018).

The RHA also argued that Seattle's ordinance violated the 5th Amendment's takings clause and Article 1, section 16 of the Washington State Constitution because the landlord's rights to possess property, exclude others, and dispose of property are limited by the ordinance. The court looked at the analysis in *Manufactured Housing Communities of Washington v. State* and focused on the third prong, "whether the Ordinance destroys one or more fundamental attributes of property ownership." *Manufactured Housing Communities of Washington v. State*, 142 Wash. 2d 347, 13 P.3d 183 (2000). The court determined that the scope of the limitations put on landlords was modest, noting that limits on a landlord rejecting an otherwise qualified tenant who seeks a payment plan does not "destroy any fundamental attributes of property ownership", and therefore did not amount to an unconstitutional taking of private property. *Margola Associates v. City of Seattle*, 121 Wash. 2d 625, 854 P.2d 23 (1993).

When implementing the proposed tenant protections, the City of White Salmon should consider the following:

- The possibility of lawsuits from landlord associations like Rental Housing Association, although they have generally been unsuccessful when challenged under RCW 35.21.830 or as an unconstitutional taking.

- The unintended consequence of higher rents as landlords attempt to recoup money needed for maintenance and improvements.

File Attachments for Item:

D. Ordinance 2023-05-1142 Amending WSMC 13.16.096 Amending the Low-Income Utility Discount Program

1. Presentation and Discussion
2. Action



Department Head:	TR/SMP
Clerk/Treasurer:	SMP
City Administrator:	TR
Mayor:	MK

COUNCIL REPORT

Business Item **Consent Agenda**

Needs Legal Review: Yes, completed
Meeting Date: May 17, 2023
Agenda Item: Ordinance 2023-05-1142 Amending WSMC 13.16 Low-Income Utility Discount
Presented By: Troy Rosenburg, Deputy Clerk and Stephanie Porter, Clerk/Treasurer

Action Required:

Review proposed Ordinance 2023-05-1142 amending the current low-income utility code to expand the eligible citizen base and provide recommendation.

Motion for Business Item / Proposed Motion for Consent Agenda:

If desired by council, a Motion to Adopt Ordinance 2023-05-1142 Amending WSMC 13.16 Low-Income Discount may be brought forward. However, staff is anticipating discussion rather than action at this meeting.

Explanation of Issue:

The City Council has express desire to see an expansion of the current Low-Income Utility Discount program, currently only available to Senior Citizen and Disabled Citizen.

Staff researched other cities that offer this type of low-income program. It appears that the majority of cities offer utility discounts solely to Senior and Disabled Citizens. The City of Edmonds, WA offers a low-income discount to citizens, and has been used as reference in the draft ordinance presented.

The provided draft ordinance includes a 25% utility discount and a 50% utility discount. They are based on income thresholds defined in RCW 84.36.383 (7) and (8). Staff included the same language for qualification as listed in the RCW. Council will need to decide if the stated income levels are agreeable based on the overall intent of the program and the revenue impact on the city budget for 2023 and moving forward. Please note there are attached impact spreadsheets that detail the potential revenue loss to both Water and Wastewater Funds.

RCW 84.36.383

Income Threshold 2 (RCW 84.36.383 (8)) a combined disposable income equal to **thirty-five thousand dollars** or a combined disposable income equal to the greater of "income threshold 2" for the previous year or **fifty-five percent of the county median household income**) but greater than income threshold 1 is exempt;
Income Threshold 1 (RCW 84.36.383 (7)) a combined disposable income equal to **thirty thousand dollars** or a combined disposable income equal to the greater of "income threshold 1" for the previous year or **forty-five percent of the county median household income** is exempt;

The RCW's cited provide the following information:

RCW 84.36.383 defines residence to help the application approvals be more in line with the intent of the program.

You will see many RCW's referenced in the Ordinance and this will allow our program to adjust with any changes to definitions and income levels provided by the State of Washington. **If the council desires, the specific language can be added to the ordinance rather than the citation of the RCW.**

RCW 84.36-383:

(1) **"Combined disposable income"** means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse or domestic partner, and the disposable income of each cotenant occupying the residence for the assessment year, less amounts paid by the person claiming the exemption or his or her spouse or domestic partner during the assessment year for:

- (a) Drugs supplied by prescription of a medical practitioner authorized by the laws of this state or another jurisdiction to issue prescriptions;
- (b) The treatment or care of either person received in the home or in a nursing home, assisted living facility, or adult family home;
- (c) Health care insurance premiums for medicare under Title XVIII of the social security act;
- (d) Costs related to medicare supplemental policies as defined in Title 42 U.S.C. Sec. 1395ss;
- (e) Durable medical equipment, mobility enhancing equipment, medically prescribed oxygen, and prosthetic devices as defined in RCW [82.08.0283](#);
- (f) Long-term care insurance as defined in RCW [48.84.020](#);
- (g) Cost-sharing amounts as defined in RCW [48.43.005](#);
- (h) Nebulizers as defined in RCW [82.08.803](#);
- (i) Medicines of mineral, animal, and botanical origin prescribed, administered, dispensed, or used in the treatment of an individual by a person licensed under chapter [18.36A](#) RCW;
- (j) Ostomic items as defined in RCW [82.08.804](#);
- (k) Insulin for human use;
- (l) Kidney dialysis devices; and
- (m) Disposable devices used to deliver drugs for human use as defined in RCW [82.08.935](#).

(6) **"Disposable income"** means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

- (a) Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;
- (b) Amounts deducted for loss;
- (c) Amounts deducted for depreciation;
- (d) Pension and annuity receipts;
- (e) Military pay and benefits other than attendant-care and medical-aid payments;
- (f) Veterans benefits, other than:
 - (i) Attendant-care payments;
 - (ii) Medical-aid payments;
 - (iii) Disability compensation, as defined in Title 38, part 3, section 3.4 of the Code of Federal Regulations, as of January 1, 2008; and

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- (iv) Dependency and indemnity compensation, as defined in Title 38, part 3, section 3.5 of the Code of Federal Regulations, as of January 1, 2008;
 - (g) Federal social security act and railroad retirement benefits;
 - (h) Dividend receipts; and
 - (i) Interest received on state and municipal bonds.

(12) The term "residence" means a single-family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations. The term also includes a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term also includes a single-family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW [84.04.080](#) and [84.04.090](#), such a residence is deemed real property.

Council Options:

City Council has the following options available at this time:

1. Accept the Staff Recommendation.
2. Revise the Staff Recommendation.
3. Refer this issue back to staff for additional work.
4. Take No Action
5. Other action as desired by council.

Fiscal Analysis:

Currently, we are only able to estimate the implications of a full Low-Income Discount Program. The attached spreadsheets show an estimate of 52 households, which is based on a doubling of the current Senior/Disabled Low-Income program which has 26 active accounts.

Staff has proposed limiting the application period to January 1 – April 30 in order to have time to adjust each year’s budget projections if the discounts approved exceed the estimation. The application period for 2023 would need to be defined by council.

We have also included a “budget worst case” that would also be a “program best case” if the program is being utilized to its full capacity of how much revenue could be affected based on the census data for Klickitat County.

Follow Up Action:

Staff will investigate any recommendation made by the council.

**CITY OF WHITE SALMON
ORDINANCE NO. 2023-05-1142**

AN ORDINANCE OF THE CITY OF WHITE SALMON, WA, AMENDING WHITE SALMON MUNICIPAL CODE 13.16.095 – 13.16.101, LOW-INCOME SENIOR AND DISABLED CITIZEN DISCOUNT PROGRAM, REPEALING SECTIONS AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the City of White Salmon has an annual increase to the utility rates due to estimated \$45 million dollars in necessary water and wastewater infrastructure improvements; and

WHEREAS, the City of White Salmon currently offers a Low-Income Utility Discount to Senior and Disabled Citizens; and

WHEREAS, the City Council recognizes the hardship utility rate increase can be for all Low-Income utility users; and

WHEREAS, the City Council desires to offer these reductions to offset utility rate increases and provide more equity to disproportionately affected communities;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITE SALMON DO ORDAIN AS FOLLOWS:

The City Council of the City of White Salmon that the following amendments be made to White Salmon Municipal Code Chapter 13.16:

SECTION 1 – Amendment to WSMC 13.16.095 – 13.16.101

Sections 13.16.095 – 13.16.101 is hereby repealed and amended to read:

Key: **Underlined** = added language
~~Strikethrough~~ = deleted language

13.16.095 Police for discounts established.

Provision for discounts to the billings for water and wastewater utility **base fee** services for ~~ertain~~ low-income ~~senior or low-income disable citizens~~ **households** is adopted in order to provide necessary support for such ~~individuals~~ **households**. Such reductions are intended to offset rate increases.

~~13.16.096 Low-income senior citizen qualifications.~~ Utility Rate Reduction for Low-Income Households

A. Definitions. For the purposes of implementing water and sewer utility rate reductions under the provisions of this section, the following words or phrases shall have the following definitions:

1. “Low income citizen” shall mean a person who has established White Salmon as their residence and whose total disposable income including that of his or her spouse or cotenant does not exceed the amount specified in RCW 84.36.381(5)(b) as the same exists or is hereafter amended.

2. The definition of terms such as “residence,” “total disposable income,” “combined disposable income,” and other such terms used in this section shall be given those meanings established by RCW 84.36.383 as the same exists or is hereafter amended. In the event that any provision of the Revised Code of Washington incorporated by reference or implication in this definitional section shall be amended, such amendment shall be deemed to be incorporated within or utilized in interpretation of this section.

B. Low-income citizens shall be given reductions in the water and sewer utility base rates as those rates are established by the city council:

1. A rate reduction of 25 percent shall be afforded to those low-income citizens who meet the qualifying income and asset levels established by “Income Threshold 2” as defined in RCW 84.36.383 (8) as the same exists or shall hereafter be amended.

2. A rate reduction of 50 percent shall be afforded to those low-income citizens who meet the qualifying income and asset levels established by “Income Threshold 1” as defined in RCW 84.36.383 (7) as the same exists or shall hereafter be amended.

3. No rate reduction shall be afforded to any person shown as a dependent on the income tax return of any other individual, whether or not such person resides at the location for which the rate reduction is sought, unless the total combined disposable income of the applicant, along with their spouse, cotenant and all family members shown on the income tax return in which the applicant is shown as a dependent, meets the standards established by this section.

~~To qualify for the discount, a low-income senior citizen shall show satisfactory proof that he or she meets all of the following criteria:~~

~~A. — Is sixty-two years of age or older;~~

~~B. — Has an annual household income of seventy-five percent or less than the medium family income for Klickitat County as provided by the Department of Housing and Urban Development;~~

~~C. — Is a single occupant or the head of a household or the spouse of the head of the household;~~

~~D. — Resides in the dwelling unit as the applicant's primary residence and does not rent the residence during the applicant's absence; and~~

~~E. — Is billed or is the spouse of a person billed by the water and wastewater utility.~~

~~Applicants shall verify such information to the satisfaction of the city, and shall provide such other data as is deemed appropriate upon forms prepared, and in the manner determined, by the city.~~

~~13.16.097 Low-income disabled citizen qualifications.~~

~~To qualify for the discount, a low-income disabled citizen shall show satisfactory proof that he or she meets all of the following criteria:~~

~~A. — Is legally disabled as defined in section 13.16.100, below; and~~

~~B. — Has an annual household income of seventy-five percent or less than the medium family income for Klickitat County as provided by the Department of Housing and Urban Development; and~~

~~C. — Is a single occupant or the head of a household or the spouse of the head of the household; and~~

~~D. — Resides in the dwelling unit as the applicant's primary residence and does not rent the residence during the applicant's absence; and~~

~~E. — Is billed or is the spouse of a person billed by the water and wastewater utility.~~

~~Applicants shall verify such information to the satisfaction of the city and shall provide such other data as is deemed appropriate upon forms prepared, and in the manner determined, by the city.~~

~~13.16.098 13.16.097 Discount applies to water and wastewater utility services.~~

~~Persons Households qualified by the city as eligible recipients of a low-income ~~senior or low-income disabled~~ citizen discount provided for in this chapter shall be granted a discount against the base charges assessed for water and wastewater utility services under this chapter.~~

~~13.16.099 Discount rate.~~

~~The clerk-treasurer is authorized to discount the base rate for water and wastewater utility services to qualified low-income seniors or low-income disabled citizens as provided below, provided, however, that there shall not be more than one such discount per household.~~

~~A. — Persons qualified by the city as eligible low-income seniors or low-income disabled citizens with an annual household income of fifty percent or less than the median family income for Klickitat County as provided by the Department of Housing and Urban Development shall receive a discount of fifty percent on the base residential water and wastewater fees.~~

~~B. — Persons qualified by the city as eligible low-income seniors or low-income disabled citizens with an annual household income between seventy-five percent and fifty-one percent of the median family income for Klickitat County as provided by the Department of Housing and Urban Development shall receive a discount of twenty-five percent on the base residential water and wastewater fees.~~

~~13.16.100 Definition of disabled persons.~~

~~For purposes of this chapter, the following person are defined as disabled;~~

~~A. — A person who has qualified and received special parking privileges under RCW 46.19.381(1)(a) through 46.19.381(1)(g).~~

~~B. — A blind person as defined in RCW 74.18.020(4).~~

~~C. — A person who has a development disability as defined in RCW 71A.10.020(3).~~

~~D. — A person who is gravely disabled as a result of a mental disorder as defined in RCW 71.05.020(16).~~

~~E. — A person who has qualified and receive social security benefits due to disability.~~

~~13.16.101 Application process for discounts.~~

~~A. Applications shall be made using the Washington State LILHEAP “Household Information Form” on an annual basis.~~

~~B. Applications shall be submitted to the city. By submitting an application, the applicant authorizes the city to refer the application to the Washington Gorge Action Programs or other appropriate entity to process the application, if necessary.~~

~~C. Applications for New Discounts and Renewals will be accepted annually from January 1 - April 30 for the current year.~~

~~C. Washington Gorge Action Programs will review and screen those applications for eligibility.~~

~~Washington Gorge Action Programs will submit a list of names and addresses to the city of White Salmon of those who appear to qualify for a low-income senior or low-income disabled persons discount.~~

SECTION 2 - SEVERABILITY.

If any section, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, or phrase of this Chapter.

SECTION 3 - EFFECTIVE DATE.

This ordinance shall become effective 5 days following passage and publication as provided by law.

PASSED in regular session this ____ day of _____, 2023

Marla Keethler, Mayor

Attested:

Approved as to form:

Stephanie Porter, Clerk/Treasurer

Shawn MacPherson, City Attorney



City of White Salmon

Projected Budget Implications - Low Income Discount Program

1 year Current Discounts (accounted for in 2023 budget)	Water	Discount Base Fee	Current Active Accounts	Current Discount Program Revenue Collected	Monthly Reduction of full base fee	Annual Revenue Loss
Inside City Limit	25%	36.85	3	\$110.55	\$36.84	\$442.08
Outside City Limit	25%	54.23	3	\$162.69	\$54.21	\$650.52
Inside City Limit	50%	24.57	12	\$294.84	\$294.72	\$3,536.64
Outside City Limit	50%	36.15	8	\$289.20	\$289.20	\$3,470.40
			26	Total:	\$674.97	\$8,099.64

This includes only new customers not existing customers:

6 Month projected additional customer discounts	Water	Discount Base Fee	Current Active Accounts	Current Discount Program Revenue Collected	Monthly Reduction of full base fee	Increase to Annual Revenue Loss (based on 2023)
Inside City Limit	25%	36.85	3	\$110.55	\$36.84	\$221.04
Outside City Limit	25%	54.23	3	\$162.69	\$54.21	\$325.26
Inside City Limit	50%	24.57	12	\$294.84	\$294.72	\$1,768.32
Outside City Limit	50%	36.15	8	\$289.20	\$289.20	\$1,735.20
			26	Total:	\$674.97	\$4,049.82

Water	2023 End of year cost:	\$12,149.46
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Projected cost for this doubling current customers. 05.01.2023

1 year Projected cost for 52 Discounts	Water	Discount Base Fee	Doubled Active Accounts	Current Discount Program Revenue Collected	Monthly Reduction of full base fee	Projected Annual Revenue Loss
Inside City Limit	25%	36.85	6	\$221.10	\$73.68	\$884.16
Outside City Limit	25%	54.23	6	\$325.38	\$108.42	\$1,301.04
Inside City Limit	50%	24.57	24	\$589.68	\$589.44	\$7,073.28
Outside City Limit	50%	36.15	16	\$578.40	\$578.40	\$6,940.80
			52	Total:	\$1,349.94	\$16,199.28

2023 Water Revenue	Water Revenue Loss	Adjusted Water Revenue
\$ 2,218,990	\$ 16,199	\$ 2,202,791

2023 Sewer Revenue	Sewer Revenue Loss	Adjusted Sewer Revenue
\$ 1,101,460	\$ 11,254	\$ 1,090,206

Projected Revenue Loss Based on 52 Active Low-Income Discount Accounts (2023 Budget numbers and utility rates)

Estimated Revenue Loss Based on doubling current active account		Fund Ending Balance	Projected Revenue Loss	Adjusted Revenue	Adjusted Ending Balance	Fund Ending Balance Requirement
Water	\$ 2,218,990	\$ 255,911	\$ 16,199	\$ 2,202,791	\$ 239,712	\$ 167,458.50
Wastewater	\$ 1,101,460	\$ 270,252	\$ 11,254	\$ 1,090,206	\$ 258,998	\$ 84,427.80

1 year Current Discounts (accounted for in 2023 budget)	Sewer	Discount Base Fee	Current Active Accounts	Current Discount Program Revenue Collected	Monthly Reduction of full base fee	Annual Revenue Loss
Inside City Limit	25%	43.44	4	\$173.76	\$57.88	\$694.56
Outside City Limit	25%	47.73		\$0.00	\$0.00	\$0.00
Inside City Limit	50%	28.96	12	\$347.52	\$347.40	\$4,168.80
Outside City Limit	50%	31.82	2	\$63.64	\$63.64	\$763.68
			18	Total:	\$468.92	\$5,627.04

This includes only new customers not existing customers:

6 Month projected additional customer discounts	Sewer	Discount Base Fee	Current Active Accounts	Current Discount Program Revenue Collected	Monthly Reduction of full base fee	Increase to Annual Revenue Loss (based on 2023)
Inside City Limit	25%	43.44	4	\$173.76	\$57.88	\$347.28
Outside City Limit	25%	47.73		\$0.00	\$0.00	\$0.00
Inside City Limit	50%	28.96	12	\$347.52	\$347.40	\$2,084.40
Outside City Limit	50%	31.82	2	\$63.64	\$63.64	\$381.84
			18	Total:	\$468.92	\$2,813.52

Sewer	2023 End of year cost:	\$8,440.56
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Projected cost for this doubling current customers. 05.01.2023

1 year Projected cost for 52 Discounts	Sewer	Discount Base Fee	Doubled Active Accounts	Current Discount Program Revenue Collected	Monthly Reduction of full base fee	Projected Annual Revenue Loss
Inside City Limit	25%	43.44	8	\$347.52	\$115.76	\$1,389.12
Outside City Limit	25%	47.73		\$0.00	\$0.00	\$0.00
Inside City Limit	50%	28.96	24	\$695.04	\$694.80	\$8,337.60
Outside City Limit	50%	31.82	4	\$127.28	\$127.28	\$1,527.36
			36	Total:	\$937.84	\$11,254.08

Calculations include Water/Sewer rate costs.

	Monthly	Annual
2023 Total Revenue loss at 26 active discount accounts	\$1,143.89	\$13,726.68
2023 Total Revenue loss with 6 month at 52 active discount accounts	\$2,287.78	\$20,590.02
2024 Projected Revenue Loss based on 52 active accounts	\$2,287.78	\$27,453.36



City of White Salmon
Low Income Potential Budget Impact

Household Income	Estimated percentage	Households count	Water Rate Monthly Cost Divided				Annual Discount Total	Total Households
			Regular Utility Cost	Monthly Discounted Amount	Regular Utility Cost	Monthly Discounted Amount		
					Households Inside City water base rate \$49.13 per month		Households Outside City water base rate \$72.30 per month	2,815
less than \$10,000	2.7%	76	\$1,867	\$934	\$2,748	\$1,374	\$27,688	
\$10,000 to \$14,999	5.0%	141	\$3,458	\$1,729	\$5,088	\$2,544	\$51,274	
\$15,000 to \$24,999	5.5%	155	\$3,803	\$1,902	\$5,597	\$2,798	\$56,401	
\$25,000 to \$30,000	3.6%	102	\$2,506	\$1,253	\$3,687	\$1,844	\$37,158	
\$30,001 to \$35,000	3.6%	101	\$2,481	\$620	\$3,651	\$913	\$18,397	
\$25,000 to \$34,999	7.2%	203						
\$35,000 to \$49,999	12.0%	338	\$8,298	\$2,075	\$12,211	\$3,053	\$61,529	

*Included for reference - not included in calculations

Median Income	County	\$59,583	KCMI %	White Salmon	\$76,513	WSMI %
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Threshold 1 - Higher of \$30,000 or 45% KCMI	\$30,000	45%	45%	Total Households Threshold 1	474
Discount Monthly revenue loss*	\$14,377	\$26,812	\$34,431	Threshold 1 - 50% discount	
Discount Annual revenue loss*	\$172,520				

*adjusted for existing 12 Inside City 50% and 8 Outside City 50% Discounts

Threshold 2 - Higher of \$35,000 or 55% KCMI	\$35,000	55%	55%	Total Households Threshold 2	101
Discount Monthly revenue loss*	\$1,533	\$32,771	\$42,082	Threshold 2 - 25% discount	
Discount Annual revenue loss*	\$18,397				

*adjusted for existing 3 Inside City 25% and 3 Outside City 25% Discounts

Projected revenue losses low-income program	
Combined Monthly revenue loss	\$15,910
Combined Annual revenue loss	\$190,917

*adjusted for existing discounts

Household Income	Estimated percentage	Households count	Sewer Rate Monthly Cost Divided				Annual Discount Total	Total Households
			Regular Utility Cost	Monthly Discounted Amount	Regular Utility Cost	Monthly Discounted Amount		
					Households Inside City sewer base rate \$57.91 per month		Households Outside City sewer base rate \$63.64 per month **	2,815
less than \$10,000	2.7%	76	\$2,201	\$1,100	\$2,418	\$605	\$20,460	
\$10,000 to \$14,999	5.0%	141	\$4,075	\$2,038	\$4,479	\$1,120	\$37,888	
\$15,000 to \$24,999	5.5%	155	\$4,483	\$2,241	\$4,927	\$1,232	\$41,677	
\$25,000 to \$30,000	3.6%	102	\$2,953	\$1,477	\$3,246	\$811	\$27,457	
\$30,001 to \$35,000	3.6%	101	\$2,924	\$731	\$3,214	\$402	\$13,594	
\$25,000 to \$34,999	7.2%	203						
\$35,000 to \$49,999	12.0%	338	\$9,781	\$2,445	\$10,749	\$2,687	\$61,589	

**Outside City Sewer estimate reduced by an additional 50% due to most households being on septic

Median Income	Klickitat County	\$59,583	KCMI %	White Salmon	\$76,513	WSMI %
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Threshold 1 - Higher of \$30,000 or 45% KCMI	\$30,000	45%	45%	Total Households Threshold 1	474
Discount Monthly revenue loss	\$10,624	\$26,812	\$34,431	Threshold 1 - 50% discount	
Discount Annual revenue loss	\$127,483				

Threshold 2 - Higher of \$35,000 or 55% KCMI	\$35,000	55%	55%	Total Households Threshold 2	101
Discount Monthly revenue loss	\$1,133	\$32,771	\$42,082	Threshold 2 - 25% discount	
Discount Annual revenue loss	\$13,594				

Projected revenue losses low-income program	
Combined Monthly revenue loss	\$11,756
Combined Annual revenue loss	\$141,077

Based on 2023 numbers as if the program had been in place the full year						
"Budget Worst Case" Calculations	Projected Revenue	Fund Ending Balance	Projected Revenue Loss	Adjusted Revenue	Adjusted Ending Balance	Fund Ending Balance Requirement
Water	\$ 2,218,990	\$ 255,911	\$ 190,917	\$ 2,028,073	\$ 64,994	\$ 167,458.50
Wastewater	\$ 1,101,460	\$ 270,252	\$ 141,077	\$ 960,383	\$ 129,175	\$ 84,427.80

* It is unlikely we will have this much revenue loss, however, I think it is important to realize the impact that could be realized based on the final discount numbers selected by the council.

File Attachments for Item:

A. Department Heads



City of White Salmon Fire Department/ Building Department

Report May 11, 2023

Responses:

The fire department responded to 11 calls from April 29 to April 28, 1 was in the city of White Salmon and 10 mutual/automatic aid to other agencies. 2 calls were medical assistance, 5 calls were fire related, 2 motor vehicle crashes and 2 calls were other.

The fire department responded to Columbia High School for an active shooter report on Wednesday May 10.

Drills:

We drill every Tuesday from 6:30 pm to 8:30 pm. We are accepting applications for volunteers, no experience necessary.

The West Klickitat Regional fire authority has taken a lot of my time.

June 30 Washington Survey and ratings bureau will be here for their five-year audit. There are several documents they are requesting for their audit.

I posted two properties for code violation for line-of-sight. One has notified me they will cut the vegetation causing the violation the other I have not heard from yet. He still has seven days to comply.

Respectfully submitted.

Bill Hunsaker

Fire Chief/ Building Official



City of White Salmon Office of Public Works

Weekly Report

Week of:	5/3/23-5/17/23
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Division:	Public Works
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Recent Activities

- Completed first of the month requirements (Treatment plant reports, Klickitat County/Washington State DOH Samples & Meter reading)
- Swept streets and posted no parking signs in preparation for crack sealing starting May 15th
- Worked with City Hall and the Police Department in posting Voyent updates about crack sealing and smoke testing
- Signed agreement to smoke test the bluff sewer line
- Notified homeowners, Bingen Fire Department, White Salmon Fire Department, Bingen/White Salmon Police and Klickitat County Dispatch of Smoke Testing happening May 11th
- Updated the 6 Year Transportation Plan to reflect current projects taking place and future ones that have moved up in priority
- Met via Zoom with North Cascade Excavating and Anderson Perry on Phase 1 Transmission Main Replacement (meetings take place every Tuesday at 2pm.
- Finished up the Well #1 pump replacement and got it back in service and backfilled areas affected from flushing of the well.
- Drained Bay #1 at the Slow Sand Treatment Plant in preparation for filter scraping on May 16th
- Prepped painter and stencils for crosswalk and T bar painting, scheduled to start May 17th (some crosswalks will have to be skipped due to chip sealing)
- Replaced failing concrete panel on the Main street side of City Hall as well as the rain drain that had failed underneath.
- Trimmed up trees on City property on Strawberry Mtn.
- Replaced failing fascia board at the cook shelter in the park (paint coming soon)
- Replaced failing trim boards at Strawberry Mtn Pressure Station (paint coming soon)
- Aerated and fertilized the park
- Installed parklets at the local businesses downtown
- Treated the wet well at Waubish lift station for the grease mat that was overheating the pumps
- Submitted a credit application to Columbia Electric Supply for the sole source procurement of SCADA components.
- Contacted Gray & Osborne about Construction Administration on the Garfield Ave project

- Met with Anderson Perry to discuss funding and design for Phase II and other projects
- Replaced batteries in sewer meters and retrieved data
- Met with Matt Marx on the Puck Huddle Line extension, informed him that we need the appropriate documentation before we can move forward with council adoption and the completion of the project.
- Jeff attended the American Water Works Association conference and brought back some valuable information.
- Installed a new water service at 1407 Sterling Ct.
- Attended a Zoom meeting about applying for Public Works Board funding



DEPARTMENT HEAD REPORT

Department: Police
Meeting Date: May 17, 2023
Presented By: Chief Mike Hepner

For dates of 04/27/2023-05/10/2023

Administration:

- WS Council Meeting
- Bingen Council Meeting
- Klickitat County Behavior Health meeting
- Klickitat Community Link Project (K-LINK) Meeting
A collaboration of community partners working together to better connect their services and better serve the community

Patrol Division:

The Bingen-White Salmon Police Department prides itself in reducing the incidence and fear of crime, ensuring justice, and safeguarding the rights of all, to provide for a safe and vibrant community.

The Bingen-White Salmon Police Department will accomplish this by working in partnership with the community we serve to enhance our law enforcement effectiveness.

I ask the Officers to prioritize their time by making calls for service as the top priority. Second to be visible in the community which means driving through neighborhoods and being seen by the public and lastly speed enforcement, parking issues, or whatever the community deems important to them.

- 25 of the 37 calls for service in this time frame were in White Salmon.
- 1 Arrest was made in White Salmon
- 1 Motor Vehicle Collision occurred in White Salmon
- 1 Domestic occurred in White Salmon
- 2 Burglaries occurred in White Salmon
- Being 2 officers short I continue working the road which takes away from my office duties and missing meetings I usually attend.
- I have hired a Lateral Officer with a start date of July 1st.

**Bingen-White Salmon Police
Monthly Activity Log
April 2023**

White Salmon	Bingen	
1	1	Abandoned/Disabled Vehicle
4	1	Agency Assist
7	1	Alarm
9		Animal Problem/Noise/Neglect
		Arson
		Assault
		Attempt to Locate
		Burglary
		Child Abuse/Neglect
4		Citizen Assist
1		Civil Matter
		Criminal Mischief
		Deceased
		Disorderly
	2	Domestic Violence
		Drugs
		DUI
		Fire
		Fireworks
		Forgery
		Fraud
2	1	Harassment
		Hazmat
		Homicide
		Information
		Intoxication
1		Juvenile Problem
		Kidnapping
29	6	

White Salmon	Bingen	
		Littering
1	1	Missing Person/Runaway
		Medical Emergency
	1	Mental Health
4		Motor Vehicle Accidents
		Motor Vehicle Theft
		Noise Complaint
6	1	Parking Problem
		Pornography
2		Property Lost/Found
		Prowler
		Recovered Stolen Property
		Resisting Arrest
		Robbery
		Search Warrant
		Sex Crimes
4	2	Suspicious
	2	Theft
		Threats
2	1	Traffic Complaint/Hazard
1	2	Traffic Offense
		Trespass
		Unsecure Premise
		Violation Court Order
		Wanted Person
		Weapons Offense
3		Welfare Check
1		911 Hang-up Calls
24	10	

16	Bingen
53	White Salmon
69	Total

**Bingen-White Salmon Police
Monthly Activity Log
April 2022**

White Salmon	Bingen	
3		Abandoned/Disabled Vehicle
10	1	Agency Assist
2	6	Alarm
2	1	Animal Problem/Noise/Neglect
		Arson
		Assault
		Attempt to Locate
1		Burglary
	1	Child Abuse/Neglect
3	7	Citizen Assist
1	1	Civil Matter
2	1	Criminal Mischief
		Deceased
2	1	Disorderly
1		Domestic Violence
1		Drugs
		DUI
1		Fire
		Fireworks
		Forgery
3		Fraud
1		Harassment
		Hazmat
		Homicide
		Information
1		Intoxication
		Juvenile Problem
		Kidnapping
34	19	

White Salmon	Bingen	
		Littering
		Missing Person/Runaway
		Medical Emergency
2	2	Mental Health
2		Motor Vehicle Accidents
		Motor Vehicle Theft
1		Noise Complaint
1		Parking Problem
		Pornography
2		Property Lost/Found
1		Prowler
		Recovered Stolen Property
		Resisting Arrest
		Robbery
		Search Warrant
		Sex Crimes
7	9	Suspicious
1	2	Theft
1		Threats
1		Traffic Complaint/Hazard
3		Traffic Offense
	1	Trespass
		Unsecure Premise
		Violation Court Order
2		Wanted Person
		Weapons Offense
5		Welfare Check
2		911 Hang-up Calls
31	14	

33	Bingen
65	White Salmon
98	Total



PLANNING DEPARTMENT UPDATE

Department: Planning Department
Meeting Date: May 17, 2023
Presented By: Jeff Broderick, Planner

Master Plan Updates

- Shoreline Master Plan (SMP): A make-up joint meeting between the Planning Commission and State agencies was held on May 10. A quorum was present and this met the joint meeting requirement. In addition, the Planning Commission voted to recommend approval of the draft SMP. The next step will be a review and vote to adopt the SMP. Because of public notice requirements, this is estimated to be on the June 21 Council meeting agenda.
- Transportation System Plan (TSP): The joint work session/project update presentation was given at the May 3 meeting. Jeff B received feedback from the Planning Commission at the May 10 meeting. Two key pieces of feedback were an emphasis on project that emphasize safety and potentially add tabs to the proposed project list to indicate projects that are in the 2021 Comp Plan. Per a meeting with Nelson/Nygaard on May 11, a draft of the TSP should be available for review during July and if all goes well, the Planning Commission should review and vote to recommend approval at their August 9 meeting with the City Council to consider the plan later in August or early September.
- With the impending departure of Jeff B in late May, he is working on transitioning these projects to other City employees so these remain on track for review and votes on approval over the summer.

Housing Action Plan and Code Updates

- Jeff is starting work on writing the housing action plan with completion targeted for early summer, but with Jeff's departure, this timeline may change.
- Jeff is working with the Mayor on developing a survey about housing/housing issues and met with her about this on April 14 to strategize questions and how to distribute and promote this. The questions are being put into a survey form by an outside consultant.
- The Planning Commission again held a work session on May 10 to go over potential code changes. Each commissioner assigned themselves a section of development code to review. At this meeting, Staff listened to ideas about potential code changes and will incorporate these in any portions of the HAP that are created in the next few weeks and captured what was discussed for anyone working on the HAP in the future.
- The Planning department is working on a public walking tour to focus on residential land use and housing types. The tour is anticipated to be the week of May 15, with the specific date/time to be determined. The walking tour will be open to all residents with the tour starting with a brief presentation, a walk and then a wrap-up/Q&A session.

Planning Updates

- The Planning department is working with the City attorney, the City Administrator, and Applicant on finalizing a development agreement for the Four Oaks subdivision. This is anticipated to be continued at the May 17 meeting agenda.

Short-term Rentals

Thirty eight 2023 renewal letters have been issued. Four renewals are under review. One new STR permit should be issued by the time of the 5/3 meeting.



DEPARTMENT REPORT FINANCE / CLERK

Meeting Date: May 17, 2023
Presented By: Stephanie Porter, Clerk Treasurer

Daily Operations / What's Happening:

- **Public Records Request** – 2 request this period
- **Clerk Treasurer Training**
- **Training Utility Clerk**, Troy Rosenberg, has been working on the Low-Income Discount Program as well as taking on the basic Permitting duties while Erika is out of office on vacation. He has also taken on the meeting minutes for all council meetings and special meetings to help out.
- **Budget Amendment**
 - 2023 budget amendment No. 2 is being drafted to accommodate updated changes in funding for grants and Transmission Main Funding requirements.
- **Daily Reconciliation** – on track
- **Monthly reporting and taxes** – Set to be completed by May 17 AP check run.
- **Quarterly Taxes** – Completed 04.28.2023
- **Multiple Annual Reports** – 2022 Annual Financial Report will go before the Personnel and Finance Committee at their May 23 committee meeting for approval before submission to the state no later than May 30, 2023.
- **Send Ordinances to Municode for code update**. This is happening each month to hopefully keep our online code up to date.
- **Record Retention** – pulling and scheduling destruction of expired records –Troy and I will begin re focusing on this in the summer after other priorities have been completed.

New Projects:

- Preparing for the implementation of multiple payroll changes including implementation of the state required Long Term Care Act withholding beginning on July 1, 2023 and payroll .
- Implementation of the new work schedule for Police Department – Updating time systems and overtime calculation process.
- Reviewing internal policies and procedures – Financial Policies and Procurement Policies
- Working with Anderson Perry to regulate the reimbursement tracking for the Main line Phase 1 Project.
- Working with Jeff Broderick to ensure we have all Shoreline Master Plan invoices for reimbursement submitted by the June 30, 2023 deadline.
- Organizing additional RFA Planning Committee Meetings - August 1 ballot submission deadline

Existing Projects Progress:

- Small Work Roster application renewals – ongoing – looking into transitioning to MRSC Small Works Roster Program to alleviate staff time. – MRSC Small Works Roster Program has been activated – The annual fee paid was \$135. – **Due to multiple projects going out to bid using the small works roster, the initiation of this transfer has been delayed in order to not interfere with the current timelines for completion of current projects. We anticipate the ability to transfer to the MRSC roster in July 2023.**

- SCADA project funding- Engineering in progress – Task Order is coming before council May 3. If approved scope will go out to bid. – **Task Order approved by council. Anderson Perry estimates this project will go out to bid in October 2023.**
- Manhole Replacement – **Out to bid – bid opening is scheduled for May 25, 2023.**
- Garfield Project bid – Artistic Excavation was noticed as the lowest responsible bidder. We also received notice from TIB that the additional grant funding request was approved. The total grant increase was \$48,429. At the June budget amendment 2, these funds will be adjusted in our street fund ending balance.
- SmartGov and Springbrook Software – implementation of the payment transfers from SmartGov to our General Ledger in Springbrook. – Springbrook provided a quote to program the import and export feature to be compatible with SmartGov. The cost is \$4,606 for the programming services. **Will be brought forth with 2023 Budget Amendment No.2.**
- Request for Qualifications (RFQ) out for Personal Service Contract – Engineering 2023- **RFQ's have been reviewed and engineering firms selected for all areas but Hydrogeological Engineering.**
- **2022 Annual Report** –Now that 2022 is reconciled, I can begin to run numbers for this report 2022 Annual Report. This report has to go before the budget committee on May 23. Once approved, the report must be submitted to the Washington State Auditor no later than May 30, 2023.
- **HR Consultant** – Nichole of It's All a Little Grey has received all necessary policies and procedures – hoping to bring forward a first draft of the revised Personnel Policies in June 2023.
- **2023 Election** – working to notify residents of the upcoming election and open elected official seats as well as the open committee seats. – Posted Election Schedule online for public viewing

Department Needs:

Electronic Public Record Retention process – Electronic Signature Technology will allow us to gear up for fully paperless in 2024. DocuSign Contract has been completed and staff training will be scheduled in June/July for implementation.

Upcoming Trainings:

- Northwest Clerk Institute – Professional Development III – June 18-23, 2023
- Washington Finance Officer Association Conference – Spokane, WA – September 19-22, 2023

Updates for the Community / Upcoming Events:

- ✓ **DATE CHANGED** Personnel and Finance Committee Meeting – May 23, 2023 at 4:30pm.
- ✓ CityLab Board Meeting – May 23, 2023 at 6:00pm
- ✓ Underwood Conservation District is resuming Tree of Heaven Removal Project – please visit <https://www.ucdwa.org/blog/tree-of-heaven-wears-out-its-welcome> for more information.