



City Council Meeting Schedule June 2020

June 2, 2020
Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

June 9, 2020
Tuesday, 6:30 p.m.

WORKSHOP MEETING - CANCELED

June 16, 2020
Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

June 23, 2020
Tuesday, 6:30 p.m.

WORKSHOP MEETING
1. Sign Code Update
2. Comprehensive Plan Amendments
3. Planning Department Update

June 30, 2020
Tuesday, 6:30 p.m.

NO MEETING SCHEDULED

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.

Please be advised that all Kennewick City Council Meetings are Audio and Video Taped



CITY COUNCIL REGULAR MEETING AGENDA
June 16, 2020 at 6:30 p.m.
City's Website

The City of Kennewick broadcasts City Council meetings on the City's website at <https://www.go2kennewick.com/CouncilMeetingBroadcasts>. The City will be providing options for citizen comment via Zoom and the City's website (see more information under Visitors on the agenda) and for citizen comment via Zoom and the City's website for the public hearing (see more information under Public Hearings/Meetings on the agenda)

1. CALL TO ORDER

Roll Call/Pledge of Allegiance/Welcome

HONORS & RECOGNITIONS

- Retirees Recognition - Michelle Dellinger & Eric Wakefield

2. APPROVAL OF AGENDA

3. CONSENT AGENDA

All matters listed within the Consent Agenda have been distributed to each member of the Kennewick City Council for reading and study, are considered to be routine, and will be enacted by one motion of the Council with no separate discussion.

- a. Minutes of Regular Meeting of June 2, 2020.
- b. (1) Motion to approve the Claims Roster for the Columbia Park Golf Course Account for April 2020.
(2) Motion to approve the Claims Rosters for the Toyota Center Operations and Box Office Accounts for April 2020.
- c. Motion to approve Payroll Roster for May 31, 2020.
- d. Motion to authorize the Mayor (or in his absence Mayor Pro Tem) to sign the final plat of Apple Valley Phase 4B, contingent upon bonding for incomplete street and landscape work.
- e. Motion to accept the work of Senske Lawn & Tree Care, Inc., for Contract P1902-19, Furnishing & Applying Herbicide 2019-2020 in the amount of \$67,821.87.
- f. Motion to accept the work of Tapani, Inc. for Contract P1606-18, Entiat to Canal Waterline, in the amount of \$1,741,115.88.
- g. Motion to award Contract P1930-20 (UPRR 24-inch Interceptor Sewer Rehabilitation Phase 3) to Iron Horse, LLC. in the amount of \$680,922.00, plus a 10% construction contingency amount of \$68,092 for a total amount of \$749,014.00.

4. VISITORS

To best comply with the Governor's Proclamation (including all amendments), the City asks all members of the public that would like to comment under the Visitors section of the agenda to fill out an online form at <https://www.go2kennewick.com/VisitorsComments> no later than 5:00 p.m. on Monday, June 15th to be included in the Council packet.

Interested parties may also submit written comments to P.O. Box 6108, Kennewick, WA 99336; or e-mail clerkinfo@ci.kennewick.wa.us no later than 5:00 p.m. on Monday, June 15th.

If you wish to comment under the Visitors section during the meeting, please register at https://us02web.zoom.us/webinar/register/WN_Z_UY_H7_RPuLLj7HcUN2CA. Registrations must be received by 4:00 p.m. on Tuesday, June 16th.

5. ORDINANCES/RESOLUTIONS

- a. Ordinance 5871: BPUD Fiber Optic Franchise Agreement
- b. Ordinance 5872: BPUD Electric Franchise Agreement

6. PUBLIC HEARINGS/MEETINGS

To best comply with the Governor's Proclamation, the City asks all members of the public that would like to comment regarding items under Public Hearings/Meetings fill out an online form at <https://www.go2kennewick.com/PublicHearing> no later than 5:00 p.m. on Monday, June 15th to be included in the Council packet.

Interested parties may also submit written comments to P.O. Box 6108, Kennewick, WA 99336; or e-mail clerkinfo@ci.kennewick.wa.us no later than 5:00 p.m. on Monday, June 15th.

If you wish to comment on the public hearing during the meeting, please register at https://us02web.zoom.us/webinar/register/WN_Z_UY_H7_RPuLLj7HcUN2CA. Registrations must be received by 4:00 p.m. on Tuesday, June 16th.

- a. Resolution 20-07: Six-Year Transportation Improvement Plan (2021-2026)

7. NEW BUSINESS

- a. 19-01 Council Code of Ethics Complaint – Council Action

8. UNFINISHED BUSINESS

9. COUNCIL COMMENTS/DISCUSSION

10. ADJOURNMENT

CITY OF KENNEWICK
CITY COUNCIL
Regular Meeting
June 2, 2020

1. CALL TO ORDER

Mayor Don Britain called the meeting to order at 6:35 p.m.

Mayor Britain stated tonight's meeting is being conducted through an online, virtual meeting platform. Councilmembers and staff are joining us remotely in order to comply with Governor Inslee's Proclamation 20.28.4 as it relates to the Open Public Meeting Act during the COVID-19 State of Emergency.

City Council and Staff present:

Mayor Pro Tem Steve Lee	Marie Mosley	Emily Estes-Cross
John Trumbo	Greg McCormick	Ken Hohenberg
Bill McKay	Christina Palmer	Chad Michael
Chuck Torelli	Lisa Beaton	Evelyn Lusignan
Jim Millbauer	Cary Roe	
Brad Beauchamp	Terri Wright	
Mayor Don Britain	Dan Legard	

Mayor Pro Tem Lee led the Pledge of Allegiance.

2. APPROVAL OF AGENDA

Mayor Britain stated a letter pertaining to the Safe Start Washington Plan was put in our Drobox this afternoon for our review. Since this is a time sensitive matter it should be added to tonight's Agenda.

Mayor Britain moved, seconded by Mayor Pro Tem Lee to add the Safe Start Letter under New Business as Item No. 7.a. The motion passed unanimously by a roll call vote.

Mr. McKay asked that Item 3.b. - Motion to approve Claims Roster for May 22, 2020 be removed from the consent agenda for further discussion. Item moved to New Business as Item 7.b.

Mr. Torelli moved, seconded by Mayor Pro Tem Lee to approve the Agenda as amended. The motion passed unanimously by a roll call vote.

3. APPROVAL OF CONSENT AGENDA

- a. Minutes of Special Meeting of May 19, 2020.
- b. ~~Motion to approve Claims Roster for May 22, 2020. Moved to New Business as Item 7.b.~~
- c. Motion to approve Payroll Roster for May 15, 2020.
- d. Motion to authorize the City Manager to sign a contract with the Washington State Department of Commerce to receive funding awarded to the City of Kennewick through the state's Coronavirus Relief Funds program.

Mayor Pro Tem Lee moved, seconded by Mr. Millbauer to approve the Consent Agenda as amended. The motion passed unanimously by a roll call vote.

4. VISITORS

Stephanie Button, 9 N. Mayfield St, Kennewick – Commented about temporary parklet and sidewalk patios in downtown Kennewick for restaurants and retailer to increase the amount of occupancy available in their spaces as we move through the reopening phases.

Mr. Trumbo joined the webinar at 6:44 p.m. after having technical difficulties.

5. ORDINANCE/RESOLUTIONS

- a. Ordinance 5870: Providing for Modification of the 2019/2020 Biennial Budget. Marie Mosley, City Manager reported.

ORDINANCE NO. 5870

AN ORDINANCE PROVIDING FOR MODIFICATION OF THE 2019/2020 BIENNIAL BUDGET

Mayor Pro Tem Lee moved, seconded by Mr. Torelli to adopt Ordinance 5870. The motion passed unanimously by a roll call vote.

6. PUBLIC HEARINGS/MEETINGS - None

7. NEW BUSINESS

a. Safe Start Letter. Marie Mosley, City Manager reported.

Mayor Pro Tem Lee moved, seconded by Mr. Millbauer to authorize the Mayor to sign the letter to Governor Inslee and Secretary of Health John Wiseman in support of the Benton County Waiver Request to Enter into Phase II of the Safe Start Washington Plan. The motion passed unanimously by a roll call vote.

b. Motion to approve Claims Roster for May 22, 2020.

Mr. McKay asked to remove this item for further discussion on behalf of Mr. Trumbo.

Mr. Trumbo asked questions regarding the payment of legal services to Atwood Law Office and Robert J. Thompson PS on the claims roster. Discussion ensued.

Mayor Pro Tem Lee moved, seconded by Mr. Torelli to approve the Claims Roster dated May 22, 2020, in the amount of \$2,893,304.28 and comprised of check numbers 152959 through 153187 and wire transfer numbers 300408 and 300409. The motion passed unanimously by a roll call vote.

8. UNFINISHED BUSINESS - None

9. COUNCIL COMMENTS/DISCUSSION

Council members discussed the Code of Ethics complaint process and the demonstrations for George Floyd.

10. ADJOURNMENT

Meeting adjourned at 8:00 p.m.

Terri L. Wright, CMC
City Clerk

Council Agenda Coversheet



Agenda Item Number	3.b.(1)	Council Date	06/16/2020
Agenda Item Type	General Business Item		
Subject	Columbia Park Golf Course Account		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	Finance		

Consent Agenda	<input checked="" type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

That Council approve the Claims Roster for the Columbia Park Golf Course Account for April 2020.

Motion for Consideration

I move to approve the Claims Roster for the Columbia Park Golf Course Account for April 2020 in the amount of \$26,931.27, comprised of check numbers 2537-2543 in the amount of \$6,134.72 and electronic transfers in the amount of \$20,796.55.

Summary

The first page of the roster is a summary of check and electronic transfer activity, with the following pages presenting more detailed information.

Alternatives

None.

Fiscal Impact

Total \$26,931.27.

Through	Denise Winters Jun 08, 15:48:33 GMT-0700 2020
Dept Head Approval	Dan Legard Jun 10, 11:11:40 GMT-0700 2020
City Mgr Approval	Marie Mosley Jun 11, 19:38:13 GMT-0700 2020

Attachments:

Recording
Required?

**COLUMBIA PARK GOLF COURSE FUND
CHECK REGISTER
APRIL 2020**

Check Number	Vendor Check Name	Check Date	Amount	Type
2537	COLUMBIA POINT GOLF COURSE	4/10/2020	\$636.85	Check
2538	MELISSA HIBBARD	4/10/2020	\$60.00	Check
2539	EDGEWOOD PARTNERS INS. CENTER	4/28/2020	\$272.00	Check
2540	KENNEWICK GOLF CORPORATION	4/30/2020	\$4,771.97	Check
2541	NATIONAL GOLF FOUNDATION	4/30/2020	\$224.00	Check
2542	QUEST DIAGNOSTICS	4/30/2020	\$31.95	Check
2543	TOTAL E INTEGRATED INC.	4/30/2020	\$137.95	Check
ADP 554686214	ADP, LLC	4/3/2020	\$95.03	EFT
ADPTS 007067402	ADP TOTAL SOURCE (AUTOPAY)	4/10/2020	\$4,437.38	EFT
CIG 809147	CAPITAL INSURANCE GROUP	4/1/2020	\$693.91	EFT
WA DOR 0013935629	DEPARTMENT OF REVENUE	4/23/2020	\$4,379.77	EFT
328204	LES SCHWAB TIRE CENTER	4/9/2020	\$153.12	EFT
328207	PEPSI COLA BOTTLING CO.	4/9/2020	\$65.68	EFT
328226	BLUE ROOM	4/9/2020	\$82.00	EFT
328265	SPARKLING CLEAN WINDOWS, LLC	4/9/2020	\$150.00	EFT
329182	CITY OF KENNEWICK ELECTRICAL	4/16/2020	\$97.92	EFT
329206	LES SCHWAB TIRE CENTER	4/16/2020	\$59.72	EFT
329207	PEPSI COLA BOTTLING CO.	4/16/2020	\$90.15	EFT
Paid by ACH	CINTAS CORPORATION #608	4/9/2020	\$77.06	EFT
Paid by ACH	CLEVELAND GOLF / SRIXON	4/9/2020	\$2,250.00	EFT
Paid by ACH	COLEMAN OIL COMPANY	4/9/2020	\$175.83	EFT
Paid by ACH	R&R PRODUCTS INC	4/9/2020	\$792.68	EFT
Paid by ACH	R&R PRODUCTS INC	4/9/2020	\$558.10	EFT
Paid by ACH	CINTAS CORPORATION #608	4/16/2020	\$63.60	EFT
Paid by ACH	CINTAS CORPORATION #608	4/16/2020	\$39.32	EFT
Paid by ACH	COLEMAN OIL COMPANY	4/16/2020	\$129.15	EFT
Paid by ACH	R&R PRODUCTS INC	4/16/2020	\$114.94	EFT
Paid by ACH	WESTERN EQUIPMENT	4/16/2020	\$84.67	EFT
Paid by ACH	WESTERN EQUIPMENT	4/16/2020	\$538.64	EFT
Paid by ACH	ADP TOTAL SOURCE (AUTOPAY)	4/10/2020	\$2,978.17	EFT
Paid by ACH	ADP TOTAL SOURCE (AUTOPAY)	4/24/2020	\$1,799.94	EFT
Paid by ACH	ELAN (MONTHLY CREDIT CARD CHGS)	4/30/2020	\$556.95	EFT
Paid by ACH	MERCHANT SERVICES	4/1/2020	\$69.20	EFT
Paid by ACH	MERCHANT SERVICES	4/1/2020	\$229.63	EFT
Bank Deduction	US Bank	4/14/2020	\$33.99	EFT
			<u>\$26,931.27</u>	

I, Dan Legard, Finance Director, do hereby certify that the merchandise or services hereinbefore specified have been received, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation and that the vouchers listed above are approved for payment this day.



Dan Legard, Finance Director

The payments on this claims roster are comprised of the following:

Check numbers 2537-2543	\$ 6,134.72
Electronic transfers	20,796.55
Total	<u>\$ 26,931.27</u>

Exceptions:

Check	Vendor	Date	Amount	Debit	Credit
2537	COLUMBIA POINT GOLF COURSE	4/10/2020		\$636.85	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$636.85
	PURCH	50100-060-244-00	SALARIES	\$192.30	
	PURCH	50100-080-244-00	SALARIES	\$192.30	
		48100-050-244-00	LESSON COGS	\$225.25	
		50200-050-244-00	HOURLY WAGES	\$27.00	
2538	MELISSA HIBBARD	4/10/2020		\$60.00	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$60.00
	PURCH	52100-080-244-00	TELECOMMUNICATIONS	\$60.00	
2539	EDGEWOOD PARTNERS INS. CENTER	4/28/2020		\$272.00	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$272.00
	PURCH	59900-080-244-00	GENERAL LIABILITY INSURANCE	\$272.00	
2540	KENNEWICK GOLF CORPORATION	4/30/2020		\$4,771.97	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$4,771.97
	PURCH	59600-080-244-00	ACCOUNTING FEES	\$1,193.63	
	PURCH	59610-080-244-00	MANAGEMENT FEE	\$3,578.34	
2541	NATIONAL GOLF FOUNDATION	4/30/2020		\$224.00	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$224.00
	PURCH	51400-080-244-00	PROFESSIONAL DUES & FEES	\$224.00	
2542	QUEST DIAGNOSTICS	4/30/2020		\$31.95	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$31.95
	PURCH	51800-080-244-00	PROFESSIONAL SERVICES	\$31.95	
2543	TOTAL E INTEGRATED INC.	4/30/2020		\$137.95	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$137.95
	PURCH	51900-050-244-00	CONTRACT SERVICES	\$137.95	
ADP 554686214	ADP, LLC	4/3/2020		\$95.03	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$95.03
	PURCH	51900-080-244-00	CONTRACT SERVICES	\$95.03	
ADPTS 007067402	ADP TOTAL SOURCE (AUTOPAY)	4/10/2020		\$4,437.38	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$4,437.38
	PURCH	50800-050-244-00	HEALTH BENEFITS	\$2,628.79	
	PURCH	50800-060-244-00	HEALTH BENEFITS	\$1,808.59	
CIG 809147	CAPITAL INSURANCE GROUP	4/1/2020		\$693.91	
	PAY	20005-000-244-00	ACCOUNTS PAYABLE - GP		\$693.91
	PURCH	18400-000-244-00	PREPAID GEN LIAB INS	\$693.91	
WA DOR 0013935629	DEPARTMENT OF REVENUE	4/23/2020		\$4,379.77	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$4,379.77
	PURCH	20300-000-244-00	SALES TAX PAYABLE	\$1,972.88	
	PURCH	59760-080-244-00	OTHER TAXES	\$2,406.89	
328204	LES SCHWAB TIRE CENTER	4/9/2020		\$153.12	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$153.12
	PURCH	58100-060-244-00	EQUIPMENT PARTS	\$153.12	
328207	PEPSI COLA BOTTLING CO.	4/9/2020		\$65.68	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$65.68
	PURCH	49150-070-244-00	COGS - PACKAGED FOOD	\$41.68	
	PURCH	49200-070-244-00	COGS - SOFT BEVERAGE	\$24.00	
328226	BLUE ROOM	4/9/2020		\$82.00	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$82.00
	PURCH	52300-060-244-00	GARBAGE & DEBRIS REMOVAL	\$82.00	
328265	SPARKLING CLEAN WINDOWS, LLC	4/9/2020		\$150.00	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$150.00
	PURCH	51900-080-244-00	CONTRACT SERVICES	\$150.00	
329182	CITY OF KENNEWICK ELECTRICAL	4/16/2020		\$97.92	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$97.92
	PURCH	52200-060-244-00	UTILITIES - GAS & ELECTRIC	\$30.24	
	PURCH	52210-060-244-00	IRRIGATION ELECTRICITY	\$67.68	

Check	Vendor	Date	Amount	Debit	Credit
329206	LES SCHWAB TIRE CENTER	4/16/2020		\$59.72	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$59.72
	PURCH	58100-060-244-00	EQUIPMENT PARTS	\$59.72	
329207	PEPSI COLA BOTTLING CO.	4/16/2020		\$90.15	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$90.15
	PURCH	49150-070-244-00	COGS - PACKAGED FOOD	\$21.45	
	PURCH	49200-070-244-00	COGS - SOFT BEVERAGE	\$68.70	
Paid by ACH	CINTAS CORPORATION #608	4/9/2020		\$77.06	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$77.06
	PURCH	51900-060-244-00	CONTRACT SERVICES	\$21.68	
	PURCH	51900-080-244-00	CONTRACT SERVICES	\$55.38	
Paid by ACH	CLEVELAND GOLF / SRIXON	4/9/2020		\$2,250.00	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$2,250.00
	PURCH	47150-050-244-00	COGS MERCHANDISE	\$2,250.00	
Paid by ACH	COLEMAN OIL COMPANY	4/9/2020		\$175.83	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$175.83
	PURCH	58300-060-244-00	FUEL & OIL MAINTENANCE	\$153.66	
	PURCH	58300-050-244-00	FUEL & OIL GOLF	\$22.17	
Paid by ACH	R&R PRODUCTS INC	4/9/2020		\$792.68	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$792.68
	PURCH	55850-60-244-00	COURSE ACCESSORIES MAINT	\$792.68	
Paid by ACH	R&R PRODUCTS INC	4/9/2020		\$558.10	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$558.10
	PURCH	55850-050-244-00	COURSE ACCESSORIES GOLF	\$158.10	
	PURCH	55850-060-244-00	COURSE ACCESSORIES MAINT	\$400.00	
Paid by ACH	CINTAS CORPORATION #608	4/16/2020		\$63.60	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$63.60
	PURCH	51900-060-244-00	CONTRACT SERVICES	\$21.18	
	PURCH	51900-080-244-00	CONTRACT SERVICES	\$42.42	
Paid by ACH	CINTAS CORPORATION #608	4/16/2020		\$39.32	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$39.32
	PURCH	51900-060-244-00	CONTRACT SERVICES	\$17.45	
	PURCH	51900-080-244-00	CONTRACT SERVICES	\$21.87	
Paid by ACH	COLEMAN OIL COMPANY	4/16/2020		\$129.15	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$129.15
	PURCH	58300-060-244-00	FUEL & OIL MAINTENANCE	\$129.15	
Paid by ACH	R&R PRODUCTS INC	4/16/2020		\$114.94	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$114.94
	PURCH	55850-050-244-00	COURSE ACCESSORIES GOLF	\$57.47	
	PURCH	55850-060-244-00	COURSE ACCESSORIES MAINT	\$57.47	
Paid by ACH	WESTERN EQUIPMENT	4/16/2020		\$84.67	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$84.67
	PURCH	58100-060-244-00	EQUIPMENT PARTS	\$84.67	
Paid by ACH	WESTERN EQUIPMENT	4/16/2020		\$538.64	
	PAY	20006-000-244-00	ACCOUNTS PAYABLE - GP		\$538.64
	PURCH	58100-060-244-00	EQUIPMENT PARTS	\$538.64	
Paid by ACH	ADP TOTAL SOURCE (AUTOPAY)	4/10/2020		\$2,978.17	
	PAY	50000-000-244-00	BANK OPERATING ACCOUNT		\$2,978.17
	PURCH	50100-060-244-00	SALARIES	\$1,434.81	
	PURCH	50200-050-244-00	HOURLY WAGES	\$1,655.40	
	PURCH	50200-060-244-00	HOURLY WAGES	\$162.95	
	PURCH	50800-050-244-00	HEALTH BENEFITS		\$548.54
	PURCH	50800-060-244-00	HEALTH BENEFITS		\$341.71
	PURCH	50950-050-244-00	PAYROLL TAXES & SERVICE FEE	\$330.60	
	PURCH	50950-060-244-00	PAYROLL TAXES & SERVICE FEE	\$270.71	
	PURCH	50950-080-244-00	PAYROLL TAXES & SERVICE FEE	\$13.95	

Check	Vendor	Date	Amount	Debit	Credit
Paid by ACH	ADP TOTAL SOURCE (AUTOPAY)	4/24/2020		\$1,799.94	
	PAY	50000-000-244-00	BANK OPERATING ACCOUNT		\$1,799.94
	PURCH	50100-060-244-00	SALARIES	\$1,434.81	
	PURCH	50200-050-244-00	HOURLY WAGES	\$850.64	
	PURCH	50800-050-244-00	HEALTH BENEFITS		\$548.54
	PURCH	50800-060-244-00	HEALTH BENEFITS		\$341.71
	PURCH	50950-050-244-00	PAYROLL TAXES & SERVICE FEE	\$167.68	
	PURCH	50950-060-244-00	PAYROLL TAXES & SERVICE FEE	\$223.11	
	PURCH	50950-080-244-00	PAYROLL TAXES & SERVICE FEE	\$13.95	
Paid by ACH	ELAN (MONTHLY CREDIT CARD CHGS)	4/30/2020		\$556.95	
	PAY	50000-000-244-00	TEMPORARY ACCT		\$556.95
	PURCH	51350-080-244-00	SAFETY SUPPLIES	\$59.99	
	PURCH	52100-060-244-00	TELECOMMUNICATIONS	\$60.05	
	PURCH	53100-080-244-00	ADVERTISING & MARKETING	\$105.50	
	PURCH	51350-080-244-00	SAFETY SUPPLIES	\$331.41	
Paid by ACH	MERCHANT SERVICES	4/1/2020		\$69.20	
	PAY	10420-000-244-00	OPERATING CHECKING ACCT - US Bank		\$69.20
	PURCH	54000-080-244-00	BANK CHARGES	\$69.20	
Paid by ACH	MERCHANT SERVICES	4/1/2020		\$229.63	
	PAY	10420-000-244-00	OPERATING CHECKING ACCT - US Bank		\$229.63
	PURCH	54000-080-244-00	BANK CHARGES	\$229.63	
Bank Deduction	US Bank	4/14/2020		\$33.99	
	PAY	10420-000-244-00	OPERATING CHECKING ACCT - US Bank		\$33.99
	PURCH	54000-080-244-00	BANK CHARGES	\$33.99	

Council Agenda Coversheet



Agenda Item Number	3.b.(2)	Council Date	06/16/2020
Agenda Item Type	General Business Item		
Subject	Toyota Center/Arena Accounts		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	Finance		

Consent Agenda	<input checked="" type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

Staff recommends that Council approve the Claims Rosters for the Toyota Center Operations and Box Office Accounts for April 2020.

Motion for Consideration

I move to approve the Claims Rosters for the Toyota Center Operations and Box Office Accounts for April 2020 in the amount of \$115,565.05, comprised of check numbers 21527-21565 in the amount of \$99,645.73 and electronic transfers in the amount of \$15,919.32.

Summary

None.

Alternatives

None.

Fiscal Impact

Total \$115,565.05.

Through	Denise Winters Jun 10, 08:03:39 GMT-0700 2020
Dept Head Approval	Dan Legard Jun 10, 11:19:19 GMT-0700 2020
City Mgr Approval	Marie Mosley Jun 11, 19:40:27 GMT-0700 2020

Attachments:

Recording Required?

**Toyota Center and Toyota Arena
Operations Claims Roster
April 2020**

Num	Date	Name	Memo	Account	Paid Amount
21527	04/03/2020	Mid-Columbia Conference.	Settlement for regional BBall Tournament	1006.1 · Sterling Operating Account	
Regional BBall	02/22/2020		Ticket sales, MCC Basketball 2/22/20	3601 · Unearned Revenue-Ticket Sales	-8,951.25
					-8,951.25
21528	04/07/2020	Advanced Protection Services, Inc.		1006.1 · Sterling Operating Account	
R120594	02/28/2020		Commercial Fire Monitoring 3/1/20-3/31/20	8039 · Security & Fire Alarm System	-73.79
R120593	02/28/2020		Commercial Ammonia Monitoring 3/1/20-3/31/20	8039 · Security & Fire Alarm System	-52.07
R121127	03/20/2020		Commercial Security Monitoring 4/1/20-4/30/20	8039 · Security & Fire Alarm System	-140.70
R121124	03/20/2020		Commercial Ammonia Monitoring 4/1/20-4/30/20	8039 · Security & Fire Alarm System	-52.07
R121114	03/20/2020		Commercial Security Monitoring 4/1/20-4/30/20	8039 · Security & Fire Alarm System	-140.70
R121125	03/21/2020		Commercial Fire Monitoring 4/1/20-4/30/20	8039 · Security & Fire Alarm System	-73.79
R121126	03/21/2020		Commercial Security Monitoring 4/1/20-4/30/20	8039 · Security & Fire Alarm System	-140.70
					-673.82
21529	04/07/2020	Amerigas	0910002962	1006.1 · Sterling Operating Account	
3104402165	03/21/2020		Propane 100.0 3/18/20	8033 · Propane	-409.92
			Due from TRCC Propane 100.0 3/18/20	2215 · Due To (From) Convention Center	-102.48
					-512.40
21530	04/07/2020	Apollo Inc	Repair to 2 heating loop boilers	1006.1 · Sterling Operating Account	
940026049	03/01/2020		Repair to 2 heating loop boilers	8041 · Repairs & Maintenance-Building	-1,472.07
					-1,472.07
21531	04/07/2020	Blue Mountain Fire Protection, Inc	Backflow to TC replacement/zam water	1006.1 · Sterling Operating Account	
1472	02/19/2020		Backflow to TC replacement/zam water	8041 · Repairs & Maintenance-Building	-5,039.04
					-5,039.04
21532	04/07/2020	Brashear Electric, Inc.		1006.1 · Sterling Operating Account	
34101	02/14/2020		Stage Hook Up for WWE	5073 · Reimbursed Outside Services	-673.32
34130	02/25/2020		Repair to power pedestal	5073 · Reimbursed Outside Services	-285.08
34204	03/12/2020		Stage Hook Up for Toby Mac 2/26/20	5073 · Reimbursed Outside Services	-673.32
34250	03/18/2020		Stage hook up for The Bachelor	5073 · Reimbursed Outside Services	-673.32
					-2,305.04
21533	04/07/2020	Canon Solutions America (Oce)	BHA806	1006.1 · Sterling Operating Account	
4032455515	04/01/2020		Copier Maintenance QHM07777	8007 · Printing & Copiers	-27.98
					-27.98
21534	04/07/2020	Central Washington Refrigeration		1006.1 · Sterling Operating Account	
40575	02/20/2020		Repair to condenser pumps	8042 · Repairs & Maintenance-Equipment	-705.90
40603	02/25/2020		Repair to pumps/inspection	8042 · Repairs & Maintenance-Equipment	-1,129.44
					-1,835.34
21535	04/07/2020	Chisholm's Saw & Supply, Inc.		1006.1 · Sterling Operating Account	
73614	03/01/2020		Zamboni Knife Sharpening	8042 · Repairs & Maintenance-Equipment	-120.42
73825	03/03/2020		Zamboni Knife Sharpening	8042 · Repairs & Maintenance-Equipment	-60.21
73885	03/10/2020		Zamboni Knife Sharpening	8042 · Repairs & Maintenance-Equipment	-60.21
					-240.84
21536	04/07/2020	Cougar Digital Marketing & Design LLC	Monthly Website Maintenance Plan/Website Changes due to COVID-19	1006.1 · Sterling Operating Account	
6247	04/01/2020		Monthly Website Maintenance Plan/Website Changes due to COVID-19	8094 · Outside Services	-207.00
					-207.00
21537	04/07/2020	Dept of L & I - Boiler	Inspection/Certification Fee 3/18/20-3/1/22	1006.1 · Sterling Operating Account	
324584	03/23/2020		Inspection/Certification Fee 3/18/20-3/1/22	8012 · Licenses & Permits	-829.26
					-829.26

**Toyota Center and Toyota Arena
Operations Claims Roster
April 2020**

Num	Date	Name	Memo	Account	Paid Amount
21538	04/07/2020	Devfuzion		1006.1 · Sterling Operating Account	
Accrue 2019 Fees	12/31/2019		Website Edits - Accrue 2019 estimated fees	8094 · Outside Services	-4,000.00
W-2878	04/01/2020		Website Hosting Fee	8094 · Outside Services	-30.00
13015	04/01/2020		Remote Access Software for April	8094 · Outside Services	-15.00
					<u>-4,045.00</u>
21539	04/07/2020	KNDOTV23/KNDUTV25		1006.1 · Sterling Operating Account	
163233A-1	03/15/2020		PO3308 Ads for The Bachelor	1633.27 · The Bachelor	-850.00
163660A-1	03/18/2020		PO3362 Ads for The Illusionists	1633.45 · The Illusionists, BW 19/20	-824.50
					<u>-1,674.50</u>
21540	04/07/2020	Mid Columbia Hockey Officials Association	Adult hockey officials games 2/3/20-3/1/20	1006.1 · Sterling Operating Account	
20-004	03/16/2020		Adult hockey officials games 2/3/20-3/1/20	8094 · Outside Services	-3,623.00
					<u>-3,623.00</u>
21541	04/07/2020	Oxarc		1006.1 · Sterling Operating Account	
30900652	02/25/2020		Cylinder Rental	5073 · Reimbursed Outside Services	-602.99
60590851	02/29/2020		Cylinder Rental	5073 · Reimbursed Outside Services	-45.22
30908306	03/05/2020		Cylinder Rental	5073 · Reimbursed Outside Services	-30.45
60612528	03/31/2020		Cylinder rental	5073 · Reimbursed Outside Services	-50.87
					<u>-729.53</u>
21542	04/07/2020	Pacific Backflow Services LLC	Backflow testing services	1006.1 · Sterling Operating Account	
2001071308	03/01/2020		Backflow testing services	8041 · Repairs & Maintenance-Building	-1,085.00
			Due from TRCC Backflow testing services	2215 · Due To (From) Convention Center	-150.00
					<u>-1,235.00</u>
21543	04/07/2020	Perfection Glass, Inc		1006.1 · Sterling Operating Account	
9993683516	03/05/2020		PO3292 replacement mirror in TC bathroom	8041 · Repairs & Maintenance-Building	-829.70
9993683610	03/10/2020		PO3292 replacement window in Andys office	8041 · Repairs & Maintenance-Building	-1,248.90
9993683750	03/16/2020		PO3386 Glass replacement for Arena Bleachers	8041 · Repairs & Maintenance-Building	-314.94
					<u>-2,393.54</u>
21544	04/07/2020	Spectrum Business	Phone and Internet Service 3/26/20-4/25/20	1006.1 · Sterling Operating Account	
0883924032620	03/31/2020		Internet Service from 3/26/20-4/25/20	8034.3 · Internet	-1,719.98
			Phone Service from 3/26/20-4/26/20	8034.1 · Telephone	-896.17
					<u>-2,616.15</u>
21545	04/07/2020	Staples/Corp Express, Inc.		1006.1 · Sterling Operating Account	
3439271690	02/13/2020		PO3335 Office Supplies	8005 · Office Supplies	-56.46
3439618606	02/18/2020		PO3333 Campus Office Supplies	8005 · Office Supplies	-16.31
3439961341	02/22/2020		PO3345 Office Supplies	8005 · Office Supplies	-53.84
3442079179	03/12/2020		PO3388 Campus office supplies	8005 · Office Supplies	-380.97
			Due from TRCC PO3388 Campus office supplies	2215 · Due To (From) Convention Center	-158.58
					<u>-666.16</u>
21546	04/07/2020	Stephens Media Group/Tri Cities		1006.1 · Sterling Operating Account	
7448	03/01/2020		PO3202 Ads for Mannheim (late invoice 11/30/19)	1633.47 · Mannheim Christmas, BW 19/20	-71.40
7490	03/01/2020		PO3219 Ads for Kenny G (rcvd late 12/31/19)	1633.26 · Kenny G, Christmas 2019	-433.50
7489	03/01/2020		PO3202 Ads for Mannheim (rcvd late 12/31/19)	1633.47 · Mannheim Christmas, BW 19/20	-81.60
13754	03/01/2020		PO3203 Ads for Trevor Noah	1633.29 · Trevor Noah	-127.50
14182	03/01/2020		PO3118 Ads for Jeff Dunham (rcvd late 12/31/19)	1633.25 · Jeff Dunham	-850.00
13887	03/01/2020		PO3118 Ads for Jeff Dunham (rcvd late 12/31/19)	1633.25 · Jeff Dunham	-850.00
					<u>-2,414.00</u>
21547	04/07/2020	Stephens Media Yakima		1006.1 · Sterling Operating Account	
2865	02/01/2020		PO3105 Ads for NF (rcvd late invoice date 10/31/19)	1633.41 · NF - October 2019	-336.60
12789	02/01/2020		PO3105 Ads for NF (rcvd late invoice date 9/30/19)	1633.41 · NF - October 2019	-275.40
					<u>-612.00</u>

**Toyota Center and Toyota Arena
Operations Claims Roster
April 2020**

Num	Date	Name	Memo	Account	Paid Amount
21548	04/07/2020	VenuWorks, Inc.		1006.1 · Sterling Operating Account	
16544	02/01/2020		February 2020 Management Fee	8124 · VenuWorks Management Fee	-9,664.08
16603	03/01/2020		March 2020 Management Fee	8124 · VenuWorks Management Fee	-9,664.08
					<u>-19,328.16</u>
21549	04/20/2020	Advanced Protection Services, Inc.		1006.1 · Sterling Operating Account	
P79165	03/19/2020		Adjust time for the vault/demo	8039 · Security & Fire Alarm System	-102.08
P79212	04/15/2020		Repair to tampers	8039 · Security & Fire Alarm System	-199.82
					<u>-301.90</u>
21550	04/20/2020	Amerigas	0910002962	1006.1 · Sterling Operating Account	
3103336533	03/01/2020		Propane 285.8 2/26/20	8033 · Propane	-1,136.78
			Due from TRCC Propane 285.8 2/26/20	2215 · Due To (From) Convention Center	-284.20
					<u>-1,420.98</u>
21551	04/20/2020	Apollo Inc	HVAC Annual Maintenance Contract	1006.1 · Sterling Operating Account	
940027217	04/03/2020		HVAC Annual Maintenance Contract	8038 · Repairs & Maintenance-HVAC	-1,902.67
					<u>-1,902.67</u>
21552	04/20/2020	Benton PUD		1006.1 · Sterling Operating Account	
Smgenlights	04/09/2020		Small general lights 3/7/20-4/7/20	8036 · Utilities	-47.05
			Due from TRCC Small general lights 3/7/20-4/7/20	2215 · Due To (From) Convention Center	-47.05
Smgensign	04/09/2020		Small general service sign 3/7/20-4/7/20	8036.3 · Electricity	-330.58
LrgGenSer	04/09/2020		Large General Service 3/7/20-4/6/20	8036.3 · Electricity	-8,870.78
			Large General Service (Ice Plant) 3/7/20-4/7/20	8036.3 · Electricity	-6,129.95
					<u>-15,425.41</u>
21553	04/20/2020	Cascade Natural Gas - COL	Service from 3/11/20-4/9/20	1006.1 · Sterling Operating Account	
Srv3/11-4/9/20	04/10/2020		Service from 3/11/20-4/9/20	8036.2 · Natural Gas	-711.35
					<u>-711.35</u>
21554	04/20/2020	Cascade Natural Gas - ICE	Service from 3/11/20-4/9/20	1006.1 · Sterling Operating Account	
Srv3/11-4/9/20	04/10/2020		Service from 3/11/20-4/9/20	8036.2 · Natural Gas	-2,227.33
					<u>-2,227.33</u>
21555	04/20/2020	Cherry Creek Radio	PO3314 Ads for The Bachelor	1006.1 · Sterling Operating Account	
IN-F-1200316284	03/31/2020		PO3314 Ads for The Bachelor	1633.27 · The Bachelor	-578.00
					<u>-578.00</u>
21556	04/20/2020	CI/Shred Columbia Industries	0935	1006.1 · Sterling Operating Account	
0098319	03/31/2020		Shred service 3/17/20	8094 · Outside Services	-112.69
					<u>-112.69</u>
21557	04/20/2020	City of Kennewick-Grounds Maintenance	Grounds Maintenance 1st Quarter 2020	1006.1 · Sterling Operating Account	
014372	04/08/2020		Grounds Maintenance 1st Quarter 2020	8044 · Repairs & Maintenance-Grounds	-3,660.30
					<u>-3,660.30</u>
21558	04/20/2020	Culligan	230326	1006.1 · Sterling Operating Account	
101229	03/18/2020		Cold Cooler Service	8098 · Supplies & Equipment	-114.03
					<u>-114.03</u>
21559	04/20/2020	Daktronics	133692-003	1006.1 · Sterling Operating Account	
525946	03/23/2020		Repair parts for marquee	8041 · Repairs & Maintenance-Building	-1,113.16
					<u>-1,113.16</u>
21560	04/20/2020	Enterprise Rent A Car	2 day Rentals for Old Dominion	1006.1 · Sterling Operating Account	
8000-3764-2261	03/01/2020		2 day Rentals for Old Dominion (invoice 2/7/20)	5073 · Reimbursed Outside Services	-493.95
					<u>-493.95</u>

**Toyota Center and Toyota Arena
Operations Claims Roster
April 2020**

Num	Date	Name	Memo	Account	Paid Amount
21561	04/20/2020	Moon Security Services, Inc.		1006.1 - Sterling Operating Account	
1014346	02/01/2020		Basic commercial monitoring 2/1/20-2/29/20	8039 - Security & Fire Alarm System	-47.78
1014593	02/01/2020		Basic Fire Monitoring 2/1/20-2/29/20	8039 - Security & Fire Alarm System	-82.71
1015803	02/01/2020		Basic commercial monitoring - Ammonia TA 2/1/20-2/29/20	8039 - Security & Fire Alarm System	-42.36
1016078	02/01/2020		Kitchen & Vault monitoring 2/1/20-2/29/20	8039FB - Sec & Fire Alarm, Food & Bev	-59.68
			Kitchen & Vault monitoring 2/1/20-2/29/20	8039 - Security & Fire Alarm System	-29.84
			Due from TRCC Kitchen & Vault monitoring 2/1/20-2/29/20	2215 - Due To (From) Convention Center	-29.83
					<u>-292.20</u>
21562	04/20/2020	Oxarc	Cylinder Rental	1006.1 - Sterling Operating Account	
30906474	03/05/2020		Cylinder Rental	5073 - Reimbursed Outside Services	-27.15
					<u>-27.15</u>
21563	04/20/2020	PeopleReady Inc	4040-1097	1006.1 - Sterling Operating Account	
	04/09/2020		Contracted Labor 2/29/20 Toby Mac	5073 - Reimbursed Outside Services	-2,495.37
					<u>-2,495.37</u>
21564	04/20/2020	Schindler Elevator Corp.	1061995	1006.1 - Sterling Operating Account	
8105308271	04/01/2020		Annual elevator maintenance 4/1/20-3/31/21	8094 - Outside Services	-5,638.16
					<u>-5,638.16</u>
21565	04/20/2020	Stephens Media Yakima		1006.1 - Sterling Operating Account	
16806	03/01/2020		PO3118 Ads for Jeff Dunham (rcvd late 10/31/19)	1633.41 - NF - October 2019	-850.00
11156	03/01/2020		PO3118 Ads for Jeff Dunham - PreSale Promo	1633.41 - NF - October 2019	-850.00
					<u>-1,700.00</u>
ONLINE	04/27/2020	Department of Revenue	Excise Tax Return Mar 2020	1006.1 - Sterling Operating Account	
			B&O Tax Payable Mar 2020	2206 - B&O Tax Payable	-1,085.43
		Department of Revenue	Sales Tax Payable Mar 2020	2201 - *Sales Tax Payable	-7,236.14
			B&O Tax Expense Mar 2020	8241 - Sales, B&O & Use Taxes	-865.70
					<u>-9,187.27</u>
AUTO	04/30/2020	Ignite Payment Systems	Card processing fees - TOYO Feb 2020	1006.1 - Sterling Operating Account	
			Card processing fees - TOYO Apr 2020	8109 - Credit Card Fees	-68.15
					<u>-68.15</u>
AUTO	04/30/2020	American Payment Solutions	Credit card processing Apr 2020	1006.1 - Sterling Operating Account	
			Credit card processing Apr 2020	8109 - Credit Card Fees	-52.45
					<u>-52.45</u>
AUTO	04/30/2020	USAePay	CC processing setup for TOYO - Mar 2020	1006.1 - Sterling Operating Account	
			CC processing setup for Center - Apr 2020	8109 - Credit Card Fees	-12.50
			CC processing setup for Arena - Apr 2020	8109 - Credit Card Fees	-12.50
					<u>-25.00</u>
			Total Paid		\$108,978.60

I, Dan Legard, Finance Director, do hereby certify that the merchandise or services hereinbefore specified have been received, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation and that the vouchers listed above are approved for payment this day.



Dan Legard, Finance Director

The payments on this claims roster are comprised of the following:

Check numbers 21527-21565	\$	99,645.73
Electronic transfers		9,332.87
		<u>108,978.60</u>
	Total	<u>\$ 108,978.60</u>

Exceptions:

**Toyota Center and Toyota Arena
Box Office Claims Roster
April 2020**

Num	Date	Name	Memo	Account	Paid Amount
AUTO	04/30/2020	American Express	AMEX fees	1006.3 - Sterling Box Office Account	
			AMEX Fees - Apr 2020	8109 - Credit Card Fees	-7.95
			AMEX - Refunds issues Mar 2020	3601 - Unearned Revenue-Ticket Sales	-6,578.50
					<u>-6,586.45</u>

Total Paid

\$6,586.45

I, Dan Legard, Finance Director, do hereby certify that the merchandise or services hereinbefore specified have been received, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation and that the vouchers listed above are approved for payment this day.



Dan Legard, Finance Director

The payments on this claims roster are comprised of the following:

Electronic transfers	\$ 6,586.45
Total	<u>\$ 6,586.45</u>

Exceptions:

**Council Agenda
Coversheet**



Agenda Item Number	3.c.	Council Date	06/16/2020
Agenda Item Type	General Business Item		
Subject	Payroll Roster for PPE 5/31/2020		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	Finance		

Consent Agenda

Ordinance/Reso

Public Mtg / Hrg

Other

Quasi-Judicial

Recommendation

That council approve the Payroll Roster.

Motion for Consideration

I move to approve the Payroll Roster for 5/31/2020 in the amount of \$1,857,676.23 comprised of check numbers 74590 through 74595 and direct deposit numbers 181583 through 182000.

Summary

None.

Alternatives


None.

Fiscal Impact

Total \$1,857,676.23.

Through	
Dept Head Approval	Dan Legard Jun 03, 07:37:16 GMT-0700 2020
City Mgr Approval	Marie Mosley Jun 11, 19:41:28 GMT-0700 2020

Attachments: payroll roster



Recording Required?

June 16, 2020


All Departments:

May 31, 2020

ADMINISTRATIVE TEAM	2,046.61
CITY COUNCIL	4,525.00
CITY MANAGER	12,760.04
CIVIL SERVICE	2,320.00
COMMUNITY PLANNING & ECONOMIC DEVELOPMENT	31,990.71
EMPLOYEE & COMMUNITY RELATIONS	38,398.27
ENGINEERING	57,606.29
FACILITIES & GROUNDS	76,842.95
FINANCE	54,433.59
FIRE	101,161.33
LEGAL SERVICES	22,461.09
MANAGEMENT SERVICES	81,067.22
POLICE	455,985.64
Subtotal General Fund	941,598.74
STREETS	27,056.84
TRAFFIC	20,040.19
Subtotal Street Fund	47,097.03
BI-PIN	11,150.39
BUILDING SAFETY	38,451.91
COMMUNITY DEVELOPMENT	4,025.18
CRIMINAL JUSTICE	68,310.14
EQUIPMENT RENTAL	11,450.51
MEDICAL SERVICES	319,068.98
RISK MANAGEMENT	3,730.94
STORMWATER UTILITY	14,247.24
WATER & SEWER	137,073.97
Subtotal Other Funds	607,509.26
Total Salaries and Wages	1,596,205.03
Benefits:	
Industrial Insurance	28,665.43
Medical Retirement Account	3,300.00
Retirement	136,751.94
Social Security (FICA)	90,789.53
WA Family Leave	1,964.30
	261,471.20
Total Benefits	
Grand Total	\$1,857,676.23

I, Dan Legard, Finance Director, at the direction of the Council, do hereby certify that the Payroll hereinabove specified is approved for payment in the amount of \$1,857,676.23 comprised of check numbers 74590 through 74595 and direct deposit numbers 181583 through 182000.

Approved for payment:



Dan Legard, Finance Director

Council Agenda Coversheet



Agenda Item Number	3.d.	Council Date	06/16/2020
Agenda Item Type	Final Plat		
Subject	Apple Valley Phase 4B		
Ordinance/Reso #		Contract #	
Project #	FP 20-03	Permit #	PLN-2020-01194
Department	Planning		

Consent Agenda	<input checked="" type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

That City Council authorize the Mayor (or in his absence Mayor Pro Tem) to sign the final plat of Apple Valley Phase 4B, contingent upon bonding for incomplete street and landscape work.

Motion for Consideration

I move to authorize the Mayor (or in his absence Mayor Pro Tem) to sign the final plat of Apple Valley Phase 4B, contingent upon bonding for incomplete street and landscape work.

Summary

An application has been submitted by Tri Cities Development Company, LLC for the Final Plat of Apple Valley Phase 4B. The plat consists of 14 lots and 4 tracts on 6.97 acres and is located generally on the southwest side of Bob Olson Parkway and north of W 31st Avenue. The property has a land use designation of Low Density Residential and is zoned Residential, Low Density (RL), which allows for a minimum lots size of 7,500 square feet.

The Preliminary Plat of Apple Valley Phases 3 and 4 was approved by the Hearing Examiner on December 19, 2017. On November 16, 2019, the Hearing Examiner approved a Major Plat Alteration of Preliminary Plat Apple Phases 3 and 4 to allow for the alteration of Phase 4 into Phases 4A and 4B. The alteration allowed for the realignment of roadways, lot counts and to accommodate a new regional storm water facility.

Staff has reviewed the final plat application and has found it to be in conformance with all applicable City development regulations. Prior to signing the Final Plat, the outstanding conditions will be met, in addition to payment of fees and bonding for incomplete sidewalk and landscape work. Following Council approval and plat signatures, the plat can be recorded and lots sold to individual owners.

Alternatives

No alternatives were reviewed or are recommended as the applicant has met the applicable standards.

Fiscal Impact

None

Through	
Dept Head Approval	Gregory McCormick Jun 05, 11:43:19 GMT-0700 2020
City Mgr Approval	Marie Mosley Jun 11, 19:50:59 GMT-0700 2020

Attachments: Final Plat Map

Recording Required?

FINAL PLAT OF APPLE VALLEY PHASE 4B

LOCATED IN THE N 1/2 OF THE NW 1/4 OF SECTION 17, TOWNSHIP 8 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN, CITY OF KENNEWICK, BENTON COUNTY, WASHINGTON

LEGEND & ABBREVIATIONS

- ◆ FOUND (FD.) SURVEY MONUMENT AS NOTED
- ◇ FOUND 3" BRASS CAP IN MONUMENT CASE AND COVER STAMPED: "PBS LS 46318 2019" PER (R8)
- ⊙ FOUND 5/8" IRON REBAR WITH YELLOW PLASTIC CAP STAMPED: "MATARAZZO 46318" PER (R8)
- ⊗ FOUND SCREW WITH 1" BRASS WASHER STAMPED: "MATARAZZO 46318" PER (R8). SEE FRONTAGE PROPERTY PIN NOTES ON THIS SHEET FOR ADDITIONAL INFORMATION
- ◆ SET 3" BRASS CAP IN MONUMENT CASE AND COVER STAMPED: "PBS LS 46318 2020" WITH THIS PLAT
- ⊙ SET 5/8" x 30" IRON REBAR WITH YELLOW PLASTIC CAP STAMPED: "MATARAZZO 46318" WITH THIS PLAT
- ⊗ SET SCREW WITH 1" BRASS WASHER STAMPED: "MATARAZZO 46318" WITH THIS PLAT. SEE FRONTAGE PROPERTY PIN NOTES ON THIS SHEET FOR ADDITIONAL INFORMATION
- CALCULATED POSITION ONLY, NOT SET OR FOUND
- (R#) DENOTES SURVEY REFERENCE. SEE LIST. ALSO DENOTES MEASURED DIMENSION MATCHES RECORD DIMENSION UNLESS NOTED OTHERWISE
- [] DENOTES STREET ADDRESS
- AFN AUDITOR FILE NUMBER
- CH# DENOTES CURVE DATA, SEE TABLE
- IRR ESMT IRRIGATION EASEMENT
- N/A NOT APPLICABLE
- PC / PT POINT OF CURVATURE / POINT OF TANGENCY
- RW DENOTES RIGHT OF WAY HEREBY DEDICATED
- S.F. / AC. SQUARE FEET / ACRES
- SEC. SECTION
- SW, UTIL & IRR ESMT SIDEWALK, UTILITY & IRRIGATION EASEMENT
- UTIL ESMT UTILITY EASEMENT
- (VOL., PG.) VOLUME, PAGE
- SECTION OR SECTION SUBDIVISION LINE
- ==== PLAT BOUNDARY
- ==== NEW RIGHT OF WAY HEREBY DEDICATED
- ==== NEW RIGHT OF WAY CENTERLINE
- ==== NEW LOT BOUNDARY
- ==== NEW EASEMENT HEREBY DEDICATED
- ==== EXISTING RIGHT OF WAY
- ==== EXISTING RIGHT OF WAY CENTERLINE
- ==== EXISTING PROPERTY BOUNDARY (ADJACENT)
- ==== EXISTING EASEMENT

BASIS OF BEARINGS
 NAD 83, NORTH 00°41'22" WEST ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SECTION 17, ESTABLISHED BY HOLDING THE COORDINATES OF FOUND MONUMENTS ON THE NORTH 1/4 CORNER & NORTHEAST CORNER OF SECTION 17, T8N, R29E, W.M., AS LISTED IN BOOK 1 OF SURVEYS, PAGE 1540, RECORDS OF BENTON COUNTY, WASHINGTON. SAID MONUMENTS ARE SHOWN AS CONTROL POINTS #0937 & #0927, RESPECTIVELY IN SAID SURVEY NO. 1540.

FOUND (FD.) SURVEY MONUMENT AS NOTED AT CENTER 1/4 CORNER OF SEC. 17, PER THE VILLAGE AT SOUTHRIDGE PHASE 1

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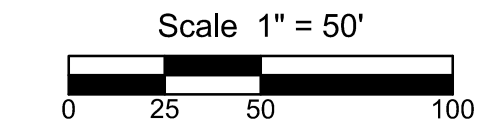
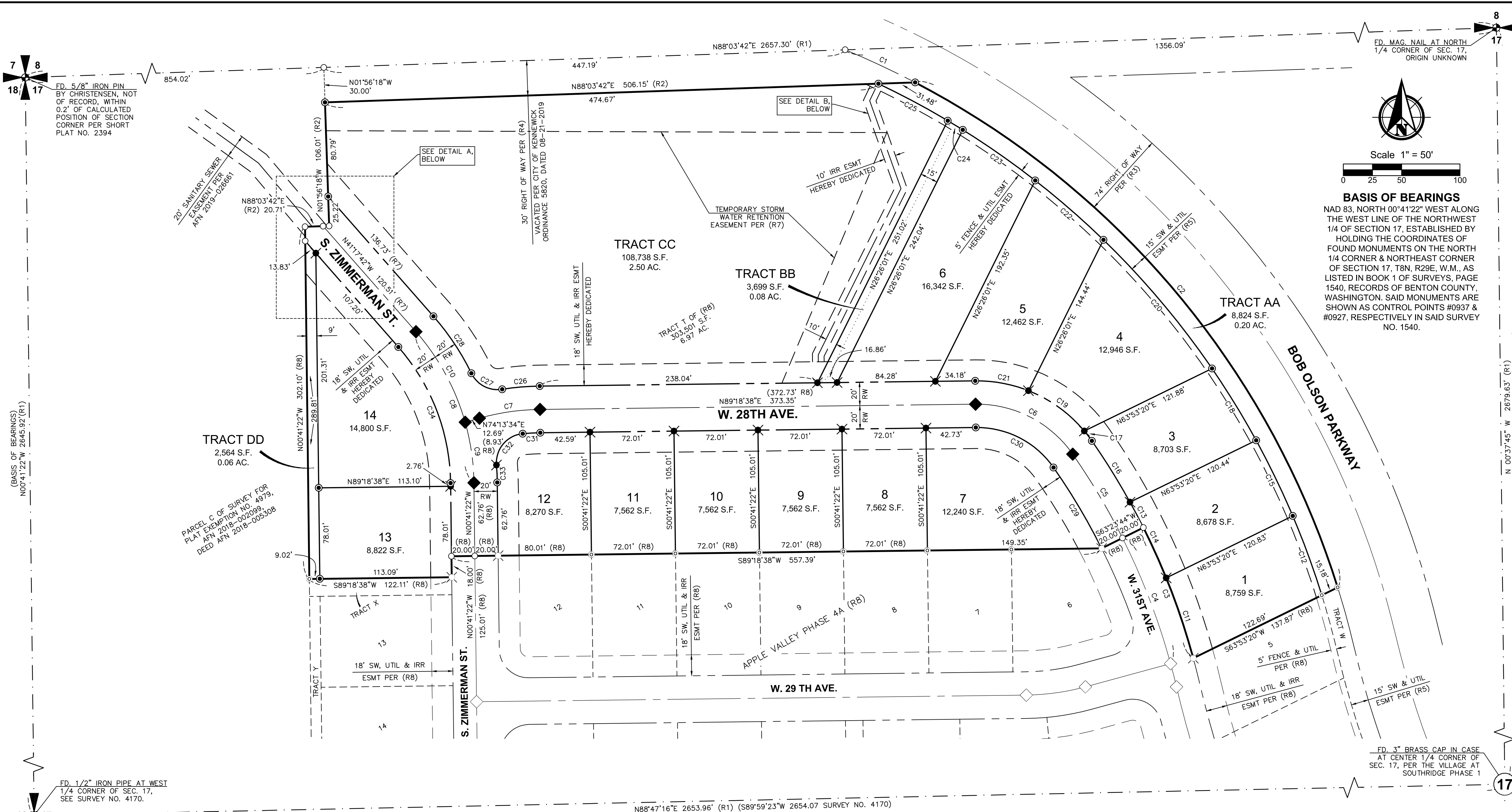
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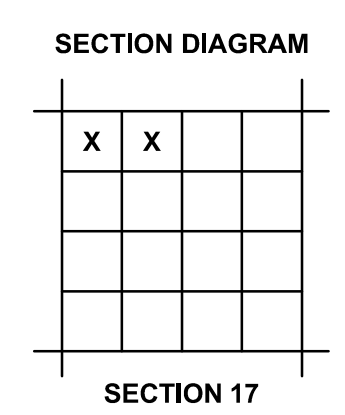
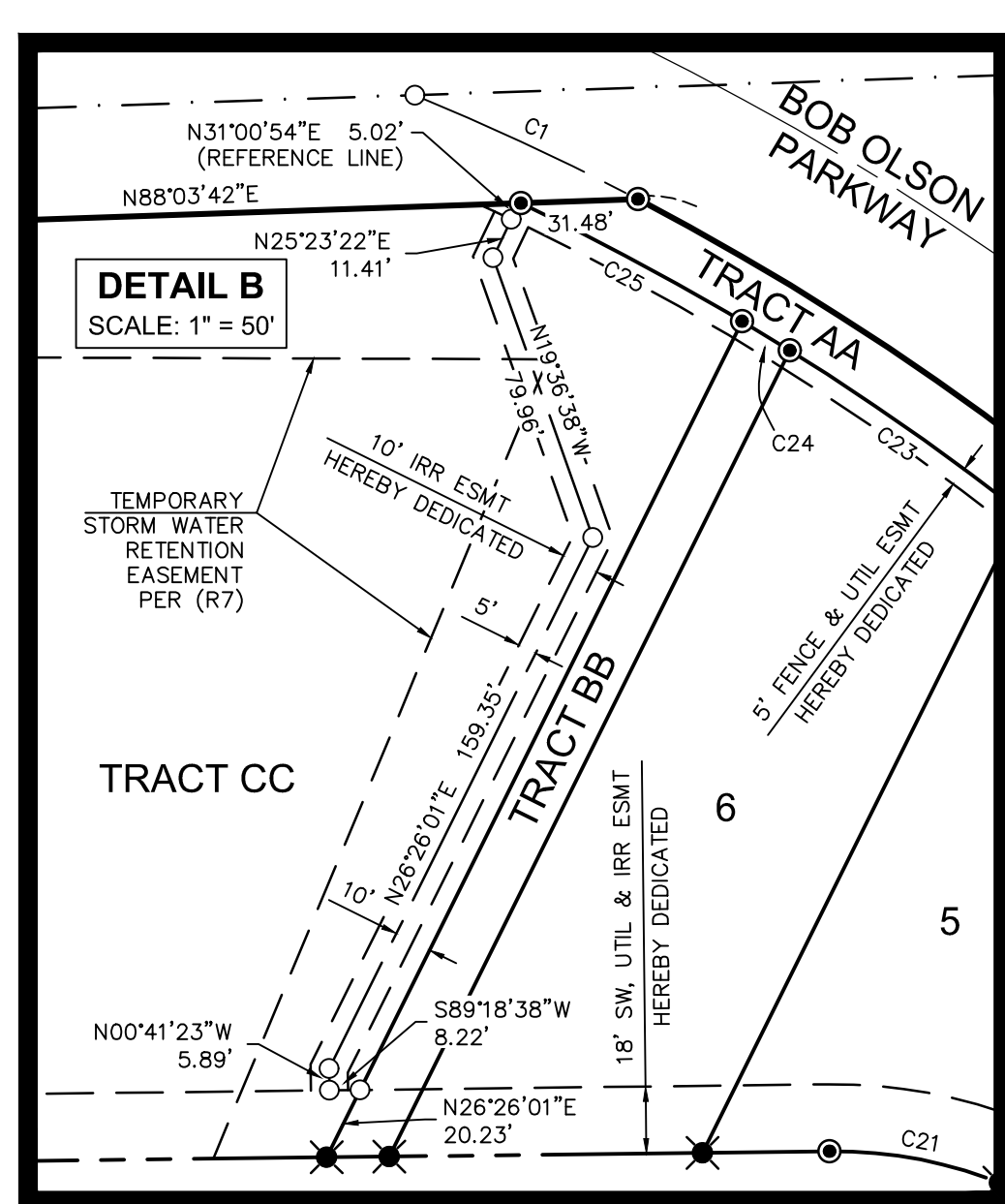
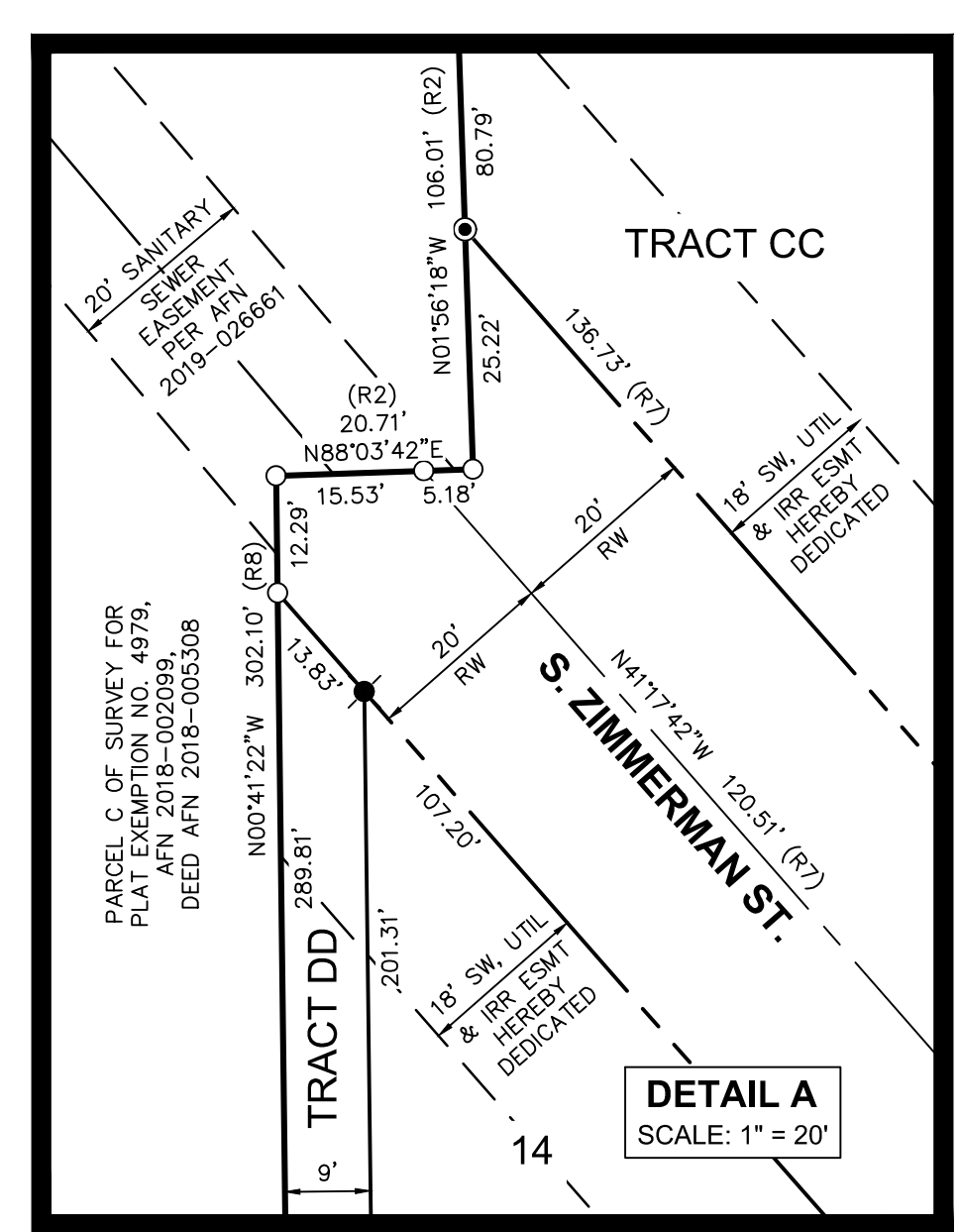
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CURVE TABLE						
CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH	(RECORD ARC L)
C1	66.18'	738.00'	5°08'17"	S64°58'10"E	66.18'	N/A
C2	579.41'	738.00'	44°59'00"	N39°54'31"W	584.64'	(R8)
C3	120.13'	603.06'	11°24'48"	S20°53'52"E	119.93'	(R8)
C4	115.55'	583.06'	11°21'17"	N20°55'38"W	115.36'	(R8)
C5	83.68'	583.06'	8°13'22"	N30°42'57"W	83.60'	(R8)
C6	97.51'	100.01'	55°51'45"	S67°45'30"E	93.69'	(R8)
C7	52.86'	200.02'	15°05'04"	N81°48'06"E	52.51'	(57.02' R8)
C8	141.75'	200.02'	40°36'19"	N20°59'32"W	138.81'	(R7&R8)
C9	52.66'	200.02'	15°05'04"	N08°13'54"W	52.51'	(52.26' R8)
C10	89.09'	200.02'	25°31'16"	S28°32'04"E	88.36'	(R8)
C11	72.67'	603.06'	6°54'14"	S18°38'36"E	72.62'	(R8)
C12	72.45'	723.00'	5°44'25"	N20°08'19"W	72.40'	(R8)
C13	24.59'	603.06'	2°20'11"	N27°46'22"W	24.59'	(R8)
C14	72.05'	603.06'	6°50'45"	S25°31'05"E	72.01'	(R8)
C15	72.04'	723.00'	5°42'32"	N25°49'48"W	72.01'	(R8)
C16	61.96'	603.06'	5°33'11"	S31°53'03"E	61.93'	(R8)
C17	10.60'	120.01'	5°03'39"	S37°21'27"E	10.60'	(R8)
C18	72.36'	723.00'	5°44'05"	S31°33'06"E	72.33'	(R8)
C19	59.74'	120.01'	28°31'10"	N54°08'52"W	59.12'	(R8)
C20	144.57'	723.00'	11°27'26"	N40°08'51"W	144.33'	(R8)
C21	46.67'	120.01'	22°16'56"	N79°32'54"W	46.39'	(R8)
C22	77.55'	723.00'	6°08'45"	N48°56'56"W	77.52'	(R8)
C23	75.88'	723.00'	6°00'49"	S55°01'43"E	75.85'	(R8)
C24	15.06'	723.00'	1°11'36"	N58°37'55"W	15.06'	(R8)
C25	67.42'	723.00'	5°20'34"	S61°54'00"E	67.40'	(R8)
C26	32.32'	220.02'	8°25'03"	S89°36'06"W	32.30'	(R7)(32.85' R8)
C27	31.92'	25.00'	73°08'36"	S62°32'08"E	29.79'	(R7)(31.99' R8)
C28	58.87'	220.02'	15°19'52"	S33°37'46"E	58.70'	(58.88' R7)(58.96' R8)
C29	80.81'	563.06'	8°13'22"	N30°42'57"W	80.74'	(R8)
C30	78.01'	80.01'	55°51'45"	S67°45'30"E	74.99'	(R8)
C31	15.09'	180.02'	4°48'16"	N86°54'30"E	15.09'	(R8)
C32	38.88'	25.00'	89°06'13"	N39°57'15"E	35.08'	(R8)
C33	15.01'	220.02'	3°54'29"	S02°38'37"E	15.00'	(R8)
C34	127.58'	180.02'	40°36'19"	S20°59'32"E	124.93'	N/A



SURVEY & DEED REFERENCES
 (R1) SURVEY FOR PLAT EXEMPTION NO. 4595 (AFN 2015-008837) BY TOMKINS
 (R2) QUIT CLAIM DEED (BOUNDARY LINE ADJUSTMENT) RECORDED UNDER AFN 2017-022047
 (R3) CONVEYANCE TO CITY OF KENNEWICK FOR ROAD PURPOSES BY DEED RECORDED UNDER AFN 2017-005228
 (R4) CONVEYANCE TO BENTON COUNTY FOR ROAD PURPOSES BY DEED RECORDED UNDER AFN 366689
 (R5) PLAT OF APPLE VALLEY PHASE 1 (AFN 2017-028841) BY MATARAZZO
 (R6) PLAT OF APPLE VALLEY PHASE 2 (AFN 2017-037669) BY MATARAZZO
 (R7) AMENDED PLAT OF APPLE VALLEY PHASE 3 (AFN 2019-022102) BY MATARAZZO
 (R8) PLAT OF APPLE VALLEY PHASE 4A (AFN 2019-030120) BY MATARAZZO

TRACT NOTES
 1.) TRACT AA IS RESERVED FOR SIDEWALK AND LANDSCAPING. THIS TRACT IS COMPLETELY ENCUMBERED BY AN EASEMENT FOR SIDEWALK, UTILITIES AND IRRIGATION. THIS TRACT WILL BE GRANTED TO THE HOME OWNERS ASSOCIATION IN THE FUTURE BY SEPARATE INSTRUMENT.
 2.) TRACT BB IS FOR PEDESTRIAN ACCESS. THIS TRACT WILL BE GRANTED TO THE HOME OWNERS ASSOCIATION IN THE FUTURE BY SEPARATE INSTRUMENT.
 3.) TRACT CC IS FOR A STORM WATER POND AND WILL BE GRANTED TO THE HOME OWNERS ASSOCIATION IN THE FUTURE BY SEPARATE INSTRUMENT.
 4.) TRACT DD IS THE REMAINDER PORTION OF THE PARENT PARCEL AND IS RESERVED FOR FUTURE DEVELOPMENT.

FRONTAGE PROPERTY PIN NOTES
 1.) DUE TO DISTURBANCE BY FUTURE CONSTRUCTION OF SIDEWALK, BOTH SET AND FOUND FRONT PROPERTY CORNERS AT SIDE LOT LINES WERE PROJECTED TO THE CENTER OF CURB AND ARE REFERENCED WITH A SCREW AND 1" WASHER STAMPED "MATARAZZO 46318". SCREWS SO SET ARE GOOD FOR LINE BUT NOT FOR DISTANCE.
 2.) WHERE SHOWN, FRONT PROPERTY CORNERS AT CURVE PC AND PT OF CORNER LOTS ARE MARKED WITH A SCREW AND 1" WASHER STAMPED "MATARAZZO 46318" DUE TO ADA RAMP CONSTRUCTION, THESE ARE TRUE CORNERS AND ARE GOOD FOR BOTH LINE AND DISTANCE.

SURVEYOR'S CERTIFICATE
 THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF WILLIAM SMITH PROPERTIES IN 2020.

ALEXANDER D. MATARAZZO, PLS 46318 DATE _____

AUDITOR'S CERTIFICATE
 FILED FOR RECORD THIS _____ DAY OF _____, 2020 AT _____ M. IN VOLUME _____ OF PLATS AT PAGE _____ AT THE REQUEST OF PBS ENGINEERING & ENVIRONMENTAL INC.

COUNTY AUDITOR _____

PBS Engineering and Environmental Inc.
 400 Bradley Blvd, Ste 106
 Richland, WA 99352
 509.942.1600
 pbsusa.com

CLIENT: WILLIAM SMITH PROPERTIES	PROJECT NO.: 66090.000
SURVEYOR: ALEXANDER D. MATARAZZO	DATE: 04/15/2020
CALC BY: ROP	DRAWN BY: ROP
SECTION: 17	TOWNSHIP: 8 NORTH
CITY: KENNEWICK	COUNTY: BENTON
	RANGE: 29 EAST
	SHEET 1 OF 2

**FINAL PLAT OF
APPLE VALLEY PHASE 4B**

LOCATED IN THE N 1/2 OF THE NW 1/4 OF SECTION 17, TOWNSHIP 8 NORTH,
RANGE 29 EAST OF THE WILLAMETTE MERIDIAN,
CITY OF KENNEWICK, BENTON COUNTY, WASHINGTON

NARRATIVE

THIS PROJECT WAS PERFORMED AT THE REQUEST OF WILLIAM SMITH PROPERTIES, INC. TO SUBDIVIDE THOSE LANDS KNOWN AS TRACT T OF THE PLAT OF APPLE VALLEY PHASE 4A RECORDED IN VOLUME 15 AT PAGE 655 UNDER BENTON COUNTY AUDITOR'S FILE NUMBER 2019-030120. THIS PROJECT IS BOUND ON THE NORTH BY THE FORMER WEST HILDEBRAND ROAD, VACATED PER CITY OF KENNEWICK ORDINANCE 5820, DATED 08-21-2019, ALONG THE NORTHEAST BY BOB OLSON PARKWAY ESTABLISHED PER INSTRUMENT RECORDED UNDER BENTON COUNTY AUDITOR'S FILE NUMBER 2017-005228, ALONG THE SOUTH BY SAID PLAT OF APPLE VALLEY PHASE 4A AND ON THE WEST BY PARCEL C DEPICTED ON SURVEY FOR PLAT EXEMPTION NO. 4979, RECORDED UNDER BENTON COUNTY AUDITOR'S FILE NUMBER 2018-002099 AND DESCRIBED IN DEED RECORDED UNDER BENTON COUNTY AUDITOR'S FILE NUMBER 2018-005308.

THIS SURVEY WAS PERFORMED AS A REAL TIME KINEMATIC SURVEY USING DUAL FREQUENCY TRIMBLE R8 GPS RECEIVERS HAVING AN ACCURACY OF ONE CENTIMETER +/- 1 PPM PER MEASURED LENGTH. THE MONUMENTS SHOWN HEREIN WERE VISITED AND TIED DURING OUR INITIAL SURVEYS IN JUNE 2016.

SUBDIVISION GUARANTEE REFERENCE

ALL TITLE INFORMATION SHOWN ON THIS MAP HAS BEEN EXTRACTED FROM INFORMATION CONTAINED IN BENTON-FRANKLIN TITLE COMPANY SUBDIVISION GUARANTEE, ORDER No. BF 10353, DATED: APRIL 06, 2020 AT 08:00 AM. IN PREPARING THIS PLAT, PBS ENGINEERING AND ENVIRONMENTAL, INC. HAS CONDUCTED NO INDEPENDENT TITLE SEARCH, NOR IS PBS ENGINEERING AND ENVIRONMENTAL, INC. AWARE OF ANY TITLE ISSUES AFFECTING THE PROPERTY OTHER THAN THOSE SHOWN ON THE PLAT AND DISCLOSED BY THE REFERENCED BENTON-FRANKLIN TITLE COMPANY SUBDIVISION GUARANTEE. PBS ENGINEERING AND ENVIRONMENTAL, INC. HAS RELIED WHOLLY ON BENTON-FRANKLIN TITLE COMPANY'S REPRESENTATION OF THE TITLE'S CONDITION TO PREPARE THIS MAP AND THEREFORE PBS ENGINEERING AND ENVIRONMENTAL, INC. QUALIFIES THE MAP'S ACCURACY AND COMPLETENESS TO THAT EXTENT.

LEGAL DESCRIPTION

THE FOLLOWING WAS DERIVED FROM THE DESCRIPTION IN EXHIBIT "A" OF THE REFERENCED TITLE REPORT.

LOCATED IN THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 8 NORTH, RANGE 29 EAST OF THE WILLAMETTE MERIDIAN, CITY OF KENNEWICK, BENTON COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT T, APPLE VALLEY PHASE 4A, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 655, RECORDS OF BENTON COUNTY, WASHINGTON.

DEDICATION

WE, TRI CITIES DEVELOPMENT COMPANY LLC., A WASHINGTON LIMITED LIABILITY COMPANY HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE TRACT OF LAND DESCRIBED HEREON AND THAT WE HAVE CAUSED SAID LAND TO BE SURVEYED AND THE LOTS CREATED AS SHOWN AND THAT THE STREET RIGHT-OF-WAY AND THE UTILITY EASEMENTS ARE HEREBY DEDICATED TO THE USE OF THE PUBLIC.

FOR TRI CITIES DEVELOPMENT COMPANY LLC. TITLE DATE

ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT _____, HAS SIGNED THIS PLAT ON BEHALF OF TRI CITIES DEVELOPMENT COMPANY LLC., ON OATH STATED THAT _____ IS AUTHORIZED TO EXECUTE THIS PLAT AND ACKNOWLEDGED IT AS THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED ON THIS PLAT.

NOTARY PUBLIC DATE

MY APPOINTMENT EXPIRES _____

RESIDING _____

TREASURER'S CERTIFICATE

I HEREBY CERTIFY THAT THE TAXES ON THE LAND DESCRIBED HEREON HAVE BEEN PAID TO AND INCLUDING THE YEAR 20 _____ A.D. TAX PARCEL: 1-1789-205-0001-000

BENTON COUNTY TREASURER DATE

BENTON COUNTY ASSESSOR DATE

APPROVALS

THE PLAT IS HEREBY APPROVED BY AND FOR THE CITY OF KENNEWICK, BENTON COUNTY, WASHINGTON.

CITY OF KENNEWICK PLAT ADMINISTRATOR DATE
FP 20-_/ PLN-2020-__

KENNEWICK CITY ENGINEER DATE

MAYOR, CITY OF KENNEWICK DATE

ATTEST:

CITY CLERK, CITY OF KENNEWICK DATE

UTILITY APPROVAL

THE UTILITY EASEMENTS AS SHOWN HEREON ARE HEREBY APPROVED BY THE FOLLOWING UTILITIES:

FOR BENTON PUD NO. 1 TITLE DATE

FOR CASCADE NATURAL GAS TITLE DATE

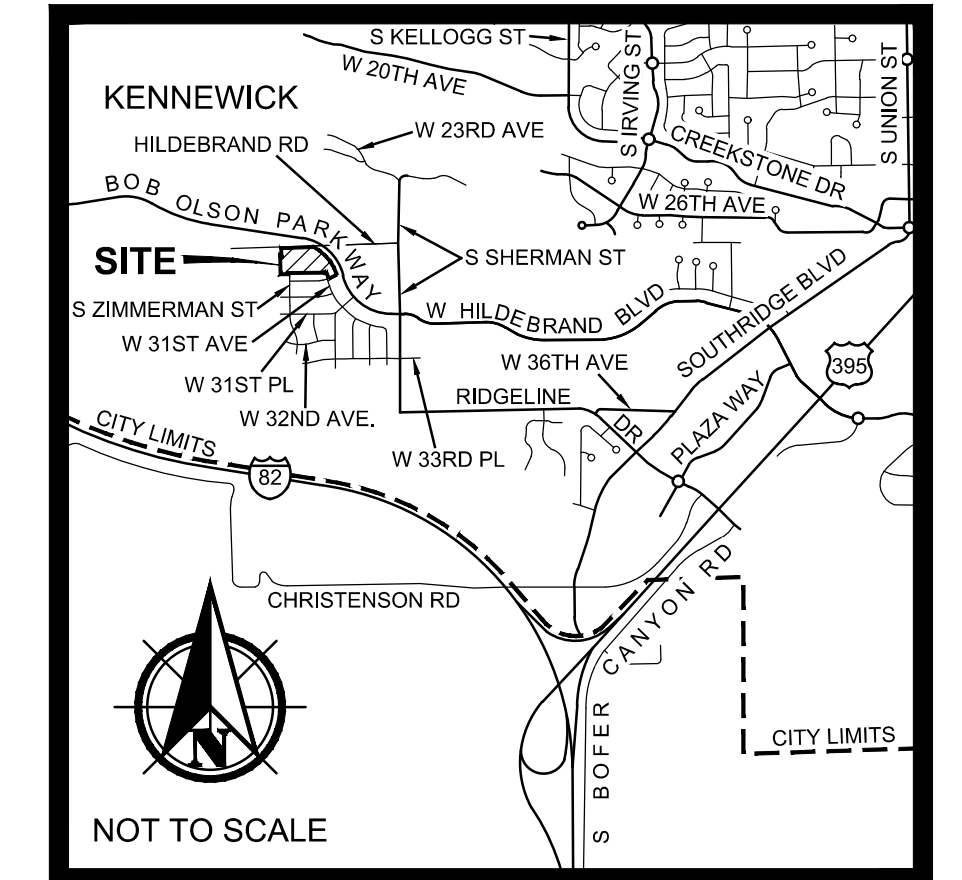
FOR FRONTIER NORTHWEST TITLE DATE

FOR CHARTER COMMUNICATIONS TITLE DATE

IRRIGATION APPROVAL

I HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN IS LOCATED WITHIN THE BOUNDARIES OF THE KENNEWICK IRRIGATION DISTRICT, THAT THE IRRIGATION EASEMENTS SHOWN ON THIS PLAT ARE ADEQUATE TO SERVE ALL LOTS SHOWN HEREON. I FURTHER CERTIFY THAT THOSE LOTS WHICH ARE ENTITLED TO IRRIGATION WATER UNDER THE OPERATING RULES AND REGULATIONS OF THE DISTRICT HAVE SATISFIED THE REQUIREMENTS OF RCW 58.17.310 AND THAT ALL ASSESSMENTS HAVE BEEN PAID THROUGH THE YEAR 20 _____ A.D.

FOR KENNEWICK IRRIGATION DISTRICT TITLE DATE



VICINITY MAP
NOT TO SCALE



PRELIMINARY

AUDITOR'S CERTIFICATE

FILED FOR RECORD THIS _____ DAY OF _____, 2020 AT _____ M. IN VOLUME _____ OF PLATS AT PAGE _____ AT THE REQUEST OF PBS ENGINEERING & ENVIRONMENTAL INC.

COUNTY AUDITOR _____

	PBS Engineering and Environmental Inc. 400 Bradley Blvd, Ste 106 Richland, WA 99352 509.942.1600 pbsusa.com	CLIENT: WILLIAM SMITH PROPERTIES	PROJECT NO.: 66090.000	
		SURVEYOR: ALEXANDER D. MATARAZZO	DATE: 04/15/2020	
		CALC BY: ROP	DRAWN BY: ROP	SCALE: N/A
		SECTION: 17	TOWNSHIP: 8 NORTH	RANGE: 29 EAST
		CITY: KENNEWICK	COUNTY: BENTON	
		SHEET <u>2</u> OF <u>2</u>		

Council Agenda Coversheet



Agenda Item Number	3.e.	Council Date	06/16/2020
Agenda Item Type	Contract/Agreement/Lease		
Subject	Furnishing & Applying Herbicide 2019-2020		
Ordinance/Reso #		Contract #	
Project #	P1902-19	Permit #	
Department	Public Works		

Consent Agenda

Ordinance/Reso

Public Mtg / Hrg

Other

Quasi-Judicial

Recommendation

Staff recommends that Council accept the work of Senske Services for Contract P1902-19, Furnishing & Applying Herbicide 2019-2020.

Motion for Consideration

I move to accept the work of Senske Services for Contract P1902-19, Furnishing & Applying Herbicide 2019-2020, in the amount of \$67,821.87.

Summary

This project consisted of furnishing and applying herbicide to approximately 5,061,946 square feet of City property in 2019 and 5,140,546 square feet in 2020; including curb and gutter, gravel shoulders, gravel maintenance roads and medians city-wide in accordance with the special provisions, manufacturer's product label instructions, and applicable Local, State and Federal laws.

Overall contract cost is as follows:

	2019	2020	Total
Original Contract	\$ 32,818.73	\$ 34,467.90	\$ 67,286.63
Additional Work	\$ 0.00	+\$ 754.48	+\$ 754.48
Quantity Changes	\$ 0.00	-\$ 219.24	-\$ 219.24
Total	\$ 32,818.73	\$ 35,003.14	\$ 67,821.87

Additional work and quantity changes were due to adding areas at contract prices and reducing unit bid items due to construction projects taking place in application areas.

Alternatives

None recommended.

Fiscal Impact

Contract Budgets:	Street Fund	\$ 65,151.18
	Parks Dept. - Facilities Maint. Fund	\$ 2,670.69

Through	Heath Mellotte Jun 05, 15:52:51 GMT-0700 2020
Dept Head Approval	Cary Roe Jun 08, 11:28:43 GMT-0700 2020
City Mgr Approval	Marie Mosley Jun 11, 20:03:29 GMT-0700 2020

Attachments:

Recording Required?

Council Agenda Coversheet



Agenda Item Number	3.f.	Council Date	06/16/2020
Agenda Item Type	Contract/Agreement/Lease		
Subject	Entiat to Canal Waterline		
Ordinance/Reso #		Contract #	
Project #	P1606-18	Permit #	
Department	Public Works		

Consent Agenda

Ordinance/Reso

Public Mtg / Hrg

Other

Quasi-Judicial

Recommendation

Staff recommends that council accept the work of Tapani, Inc. for Contract P1606-18, Entiat to Canal Waterline

Motion for Consideration

I move to accept the work of Tapani, Inc. for Contract P1606-18, Entiat to Canal Waterline in the amount of \$1,741,115.88.

Summary

Original Contract	\$1,617,413.47
Change Orders	\$ 158,947.64
Quantity Changes	\$ - 35,245.23
Total	\$1,741,115.88

This project included: demolition, removal, and abandonment of an existing 16-inch steel water line previously isolated due to leaks, installed approximately 1,550 lineal feet of new 24-inch and 30-inch waterlines, installed 42-inch steel casings under CID flume, UPRR, BNSF tracks, and made connections with existing 8-inch, 12-inch, 16-inch, and 18-inch waterlines. This project also included installation of a 60-inch steel casing under the US 395 highway for future water line extension and planned renewal of additional parallel aging water line infrastructure.

This project had 11 change orders which included labor, equipment, and materials: repeated obstructions while boring under US 395 and BNSF tracks, signage near the tracks, conflicts near CID's raw water pump station, haul off and disposal of buried construction debris, valve removal at depths near 17 feet, etc.

Quantity Changes included: reduced rail road flagging labor, disposal of hazardous materials, a reduction in silt fencing, reduction in trench backfill, extents of paving overlay, etc.

Alternatives

None recommended

Fiscal Impact

Water and Sewer Fund: \$1,741,115.88

Through	John Cowling Jun 10, 10:57:46 GMT-0700 2020
Dept Head Approval	Cary Roe Jun 10, 11:49:42 GMT-0700 2020
City Mgr Approval	Marie Mosley Jun 11, 20:07:51 GMT-0700 2020

Attachments:

Recording Required?

Council Agenda Coversheet



Agenda Item Number	3.g.	Council Date	06/16/2020
Agenda Item Type	Contract/Agreement/Lease		
Subject	UPRR 24-inch Interceptor Sewer Rehab Phase 3		
Ordinance/Reso #		Contract #	
Project #	P1930-20	Permit #	
Department	Public Works		

Consent Agenda	<input checked="" type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

That City Council award Contract P1930-20 (UPRR 24-inch Interceptor Sewer Rehabilitation Phase 3) to Iron Horse, LLC. in the amount of \$680,922.00, plus a 10% construction contingency amount of \$68,092 for a total amount of \$749,014.00.

Motion for Consideration

I move to award Contract P1930-20 (UPRR 24-inch Interceptor Sewer Rehabilitation Phase 3) to Iron Horse, LLC. in the amount of \$680,922.00, plus a 10% construction contingency amount of \$68,092 for a total amount of \$749,014.00.

Summary

Three (3) bids were received on June 9, 2020 at 2:00 p.m.

Iron Horse, LLC.	\$680,922.00
Insituform Technologies, LLC.	\$755,861.43
Michels Corporation	\$922,038.98

Engineer's Estimate: \$778,733.68

This project is for the construction of the UPRR 24-inch Interceptor Sewer Rehabilitation Phase 3 project parallel to the Union Pacific Railroad and the Columbia Irrigation District's canal to the east of N Edison Street. The project consists of rehabilitation of approximately 3,200 lineal feet of 24-inch diameter RCP sewer utilizing trenchless technology, cured-in-place pipe (CIPP). All manholes will be sprayed with a protective lining to reduce hydrogen sulfide induced corrosion.

State law requires that we award contracts to a responsible bidder with the lowest responsive bid. We have reviewed all bids and determined them all to be responsive. We are recommending award of this project to Iron Horse, LLC. who we have determined to be a responsible bidder with the lowest responsive bid.

Alternatives

None recommended.

Fiscal Impact

Water and Sewer Fund:	Construction Contract:	\$680,922.00
	Construction Contingency:	\$ 68,092.00
	Total:	\$749,014.00

Through	John Cowling Jun 10, 10:59:57 GMT-0700 2020
Dept Head Approval	Cary Roe Jun 10, 11:48:02 GMT-0700 2020
City Mgr Approval	Marie Mosley Jun 11, 20:09:10 GMT-0700 2020

Attachments:

Recording
Required?

KENNEWICK CITY COUNCIL

Don Britian, Mayor
Steve Lee, Mayor Pro-Tem
Brad Beauchamp
Jim Millbauer
Charles Torelli
John Trumbo
Bill McKay

Dear City Council:

We are writing to you today as we are concerned with the interpretation of the recent protests in our community, the armed vigilante groups, and the absence of a response by the city council. The protests that we have seen in our community have been ignited by the death of George Floyd in Minneapolis, Minnesota during Memorial Day weekend and it's not an understatement to say that his death has changed America. It will also change our city and it is now time to listen. The issues of police accountability and racism can't be ignored anymore. Creating another Diversity Commission only to see it not renewed and asking it to exit stage left won't be acceptable anymore. The community has for years heard the council cite that they don't weigh in on "social issues". We once heard a former city councilman once say that he doesn't see any semblance of racism in the city of Kennewick. That was merely avoiding the conversation. It's been long overdue for the city and its leadership need to truly lead the way and proactively address the racial injustices seen in our community while also acknowledging our discriminatory past. This isn't an indictment of the council, the city manager, police department and so forth. These words are a challenge you to all to take the time to better understand and feel other peoples struggles. It's going through self-reflection and recognizing how our local government and its dark history has played a role in contributing to systemic racism. But at this moment, recognizing isn't enough. What are you going to do about it? What are you going to do about the people protesting who are now being intimidated by residents with AR-15's? When one goes to Burger King, we ask for a Whopper and Fries, not a side order of an assault rifle being pointed at you in the name protecting property.

Ask yourself this, how would I feel if I saw that police departments or cities were more invested in protecting property than my own life? That's the question that many of our black and brown neighbors ask themselves every day. Ask yourself why peaceful protesters are always met by violence? Think about it, we saw armed civilians storm our state capital to protest stay-at-home orders with AR-15's strapped to their back and they get called patriots. But the protesters from this past weekend: suspected looters and Antifa members. The discrimination is in plain sight but yet our community chooses look the other way. We as a community shouldn't tolerate such tactics by groups like Defend the Tri which only aid in contributing to sow more fear and division. We personally saw outside agitators at the protests this past weekend and their sole purpose was to inflame tensions and hijack the messaging of the protests. In this burning moment, we know the council values the diversity of our community and sees it as its greatest strength. We believe the council possess the strength of voice to

KENNEWICK CITY COUNCIL

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do what's right because no matter the circumstances, it's always the right time to do the right thing, especially during this public referendum on race in our country. We ask that the council to denounce all community para-military groups and tell them to go home so that our community members can move freely and comfortably within their own community. We also ask that the city council support and stand with majority of our community and people of color in their struggle to make Kennewick a more inclusive city. We can't be complacent in the face of racism and by raising black and brown lives from the margins of our community, we can lift all lives.

Thank you.

Leo Perales

Brandon Pocasangre

Council Agenda Coversheet



Agenda Item Number	5.a.	Council Date	06/16/2020
Agenda Item Type	Ordinance		
Subject	Fiber Optic Franchise Agreement with Benton PUD		
Ordinance/Reso #	5871	Contract #	
Project #		Permit #	
Department	Public Works		

Consent Agenda	<input type="checkbox"/>
Ordinance/Reso	<input checked="" type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

That Council adopt Ordinance 5871, granting a non-exclusive fiber optic facilities franchise agreement to Benton PUD.

Motion for Consideration

I move to adopt Ordinance 5871.

Summary

Ordinance 5871 grants a new franchise agreement to Public Utility District No. 1 of Benton County (Benton PUD) for fiber optic facilities through June 16, 2025, with the ability to renew and extend the agreement to June 16, 2030.

The proposed negotiated franchise agreement separates fiber optic facilities operated by BPUD through NoaNet into its own franchise agreement, separate from the electrical power franchise agreement.

Staff recommends adoption of the ordinance.

Alternatives

None recommended.

Fiscal Impact

None.

Through	Bruce Mills Jun 04, 13:28:43 GMT-0700 2020
Dept Head Approval	Cary Roe Jun 10, 14:56:16 GMT-0700 2020
City Mgr Approval	Marie Mosley Jun 11, 20:13:50 GMT-0700 2020

Attachments:

Recording Required?

CITY OF KENNEWICK
ORDINANCE NO. 5871

AN ORDINANCE OF THE CITY OF KENNEWICK GRANTING TO
PUBLIC UTILITY DISTRICT NO. 1 OF BENTON COUNTY A NON-
EXCLUSIVE FRANCHISE TO CONSTRUCT, INSTALL, OPERATE,
MAINTAIN, REPAIR, OR REMOVE FIBER OPTIC CABLES WITHIN
THE PUBLIC WAYS OF THE CITY OF KENNEWICK

WHEREAS, the Kennewick City Council passed Ordinance 2000 on October 19, 1976, adopting the classification of non-chartered code city for the City of Kennewick; and

WHEREAS, Article 11, Section 11, of the Washington State Constitution provides that the City of Kennewick “may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws;” and

WHEREAS, the Kennewick City Council, by Section 35A.11.020 of the Revised Code of Washington, through Section 35A.13.230 of the Revised Code of Washington, has any authority ever given to any class of municipality or to all municipalities of this state, and all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law, which may be exercised in regard to the regulation or use of public ways and property of all kinds and improvements thereto; and

WHEREAS, Section 35A.47.040 of the Revised Code of Washington authorizes the City to grant, permit, and regulate non-exclusive franchises for the use of public ways; and

WHEREAS, Public Utility District No. 1 of Benton County, hereinafter referred to as the Franchisee has applied to the City of Kennewick, Washington for a non-exclusive franchise to enter, occupy, and use public ways to construct, install, operate, maintain, and repair fiber optic facilities to offer and provide telecommunications service for hire, sale, resale, and internal use for the purposes of operating an electrical distribution utility in the City of Kennewick; and

WHEREAS, the 1934 Communications Act, as amended by the 1996 Telecommunications Act, 47 USC § 151, et seq., relating to telecommunications providers recognizes and provides state and local government authority to manage the public rights-of-way and to require fair and reasonable compensation on a competitively neutral and nondiscriminatory basis; and

WHEREAS, Washington’s Telecommunications Services Act, 2000 Wash. Laws, chapter 83, as amended, RCW Ch. 35.99, relating to telecommunications providers recognizes and provides Washington cities authority to require franchises and use permits for constructing, installing, operating, maintaining, repairing, or removing telecommunication facilities in public rights-of-way; and

WHEREAS, a franchise is a legislatively approved master permit granting general permission to a service provider to enter, use, and occupy the public ways for the purpose of locating facilities

subject to requirements that a franchisee must also obtain separate use permits from the City for use of each and every specific location in the public ways in which the franchisee intends to construct, install, operate, maintain, repair or remove identified facilities; and

WHEREAS, a franchise does not include, and is not a substitute for any other permit, agreement, or other authorization required by the City, including without limitation, permits required in connection with construction activities in public ways which must be administratively approved by the City after review of specific plans; and

WHEREAS, the grant of a non-exclusive franchise requires submission to the City Attorney, an affirmative vote of at least a majority of the entire City Council and publication at least once in newspaper of general circulation; and

WHEREAS, the City Council finds that the franchise terms and conditions contained in this ordinance are in the public interest; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDRAIN AS FOLLOWS:

Section 1. Definitions. For the purposes of this Ordinance, the following terms, phrases, words, and their derivations will have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined will have the meaning ascribed to those words in the Kennewick Municipal Code unless inconsistent herewith.

"Cable Television Service" means the one-way transmission to subscribers of video programming and other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

"City" means the City of Kennewick, Washington, its agencies, departments, and divisions.

"City Property" means and includes all real property owned by the City, other than public ways, including without limitation, City parks, and all property owned in fee by the City.

"Conduit" means optical cable housing, jackets, or casing, and pipes, tubes, or tiles used for receiving and protecting wires, lines, cables, and communication and signal lines.

"Costs" means costs, expenses, and other financial obligations of any kind whatsoever.

"Dark Fiber" means properly functioning optical cable which is not used or available for use by Franchisee or the general public.

"Effective Date" means five days following the publication of this Franchise or a summary thereof occurs in an official newspaper of the City as provided by law.

"Emergency" means a condition of imminent danger to the health, safety, and welfare of property or persons located within the City including, without limitation, damage to persons or property from accidents or natural consequences, such as storms, earthquakes, riots or wars.

"Existing" means in actual physical being upon the effective date of this Franchise.

"Facilities" means all of the plant, equipment, fixtures, appurtenances, and other facilities necessary to furnish and deliver telecommunications services, including but not limited to poles with crossarms, poles without crossarms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of telecommunications services.

"Fiber Optics" means the technology of guiding and projecting light for use as a communications medium.

"Franchisee" means the Public Utility District No. 1 of Benton County to whom this Franchise is granted by the Council pursuant to this Franchise and the lawful successor, transferee or assignee of said person subject to such conditions as defined herein.

"Governmental Use" means use by the City, State, or agencies or departments of the United States for the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means both internally and externally within or between their various agencies, departments, and divisions.

"Incremental Costs" means the actual and necessary costs incurred which exceed costs which would have otherwise been incurred. Incremental costs shall not include any part, portion, or pro-portion of costs, of any kind whatsoever, including without limitation overhead or labor costs, which would have otherwise been incurred.

"Information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

"Optical Cable" means wires, lines, cables and communication and signal lines used to convey communications by fiber optics.

"Overhead Facilities" means facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

"Person" means natural person, joint venture, joint stock association or company, partnership, firm, association, club, company, corporation, business, trust, or organization.

"Personal Wireless Services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

"Public Street" means any highway, street, alley or other public right of way for motor vehicle travel under the jurisdiction and control of the City which has been acquired, established, dedicated or devoted to such purposes.

"Public Way" means and includes all public streets, utility easements, and other rights-of-way, now or hereafter owned by the City, but only to the extent of the City's right, title, interest or authority to grant a license or franchise to occupy and use such public streets, utility easements, or other rights-of-way for telecommunications facilities. "Public way" does not include City property; State highways; land dedicated for roads, streets, and not opened and not improved for motor vehicle use by the public; structures, including poles and conduits, located within the public way; federally granted trust lands or forest board trust lands; lands owned or managed by the state parks and recreation commission; or federally granted railroad rights of way that are not open for motor vehicle use.

"Street Tree" means any tree located in, or that portion over-hanging, any public way and any tree planted on private property near a public way at the direction of the City.

"Telecommunications Service" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public.

"Telecommunications Service" excludes the over-the-air transmission of broadcast television or broadcast radio signals.

"State" means the State of Washington, its agencies, departments, and governmental subdivisions, and all agencies, departments, and divisions of its agencies, departments, and governmental subdivisions.

"Underground Facilities" means facilities located under the surface of the ground, other than underground foundations or supports for overhead facilities.

"Utility Poles" means poles, and crossarms, devices, and attachments directly affixed to such poles which are used for the transmission and distribution of electrical energy, signals, or other methods of communication.

Section 2. Franchise.

- A. The City of Kennewick, Benton County, Washington, hereinafter referred to as the City, hereby grants to Public Utility District No. 1 of Benton County, hereinafter referred to as the Franchisee or the District, subject to the terms and conditions of this Franchise, a non-exclusive franchise to enter, occupy, and use public ways for constructing, installing, operating, maintaining, repairing, and removing wireline facilities necessary to provide telecommunications services. Except as expressly provided otherwise in subsections 4(E)(1)-(4) and 17(A) and (B) Franchisee shall construct, install, operate, maintain, repair, and remove its facilities at its expense.

- B. Nothing in this Franchise grants authority to Franchisee to enter, occupy, or use public ways for constructing, installing, operating, maintaining, repairing, or removing wireless communication facilities. An allowable exception is that Franchisee may install, operate, maintain, repair, remove and replace PUD-owned radio transceivers to communicate with customer premise equipment for the purposes of support for retail broadband service providers. Further exceptions shall be addressed through Interlocal Agreements between the Franchisee and the City.
- C. Nothing in this Franchise grants authority to Franchisee to enter, occupy, or use City property.
- D. Any rights, privileges, and authority granted to Franchisee under this Franchise are subject to the legitimate rights of the police power of the City to adopt and enforce general ordinances necessary to protect the safety and welfare of the public, and nothing in this Franchise excuses Franchisee from its obligation to comply with all applicable general laws enacted by the City pursuant to such power. Any conflict between the terms or conditions of this Franchise and any other present or future exercise of the City's police powers will be resolved in favor of the exercise of the City's police power.
- E. Nothing in this Franchise excuses Franchisee of its obligation to identify its facilities per WAC or RCW and proposed facilities and their location or proposed location in the public ways and to obtain use and/or development authorization and permits from the City before entering, occupying, or using public ways to construct, install, operate, maintain, repair, or remove such facilities.
- F. Nothing in this Franchise excuses Franchisee of its obligation to comply with applicable codes, rules, regulations, and standards subject to verification by the City of such compliance.
- G. Nothing in this Franchise shall be construed to limit taxing authority or other lawful authority to impose charges or fees, or to excuse Franchisee of any obligation to pay lawfully imposed charges or fees.
- H. Nothing in this Franchise grants authority to Franchisee to impair or damage any City property, public way, other ways or other property, whether publicly or privately owned.
- I. Nothing in this Franchise shall be construed to create a duty upon the City to be responsible for construction of facilities or to modify public ways to accommodate Franchisee's facilities.
- J. Nothing in this Franchise grants authority to Franchisee to provide or offer cable television service

- K. Franchisee may use the wireline facilities authorized by this Franchise for the transmission of information used to provide personal wireless services only as expressly provided in this Franchise.
- L. Nothing in this Franchise shall be construed to create, expand, or extend any liability of the City to any third party user of Franchisee's facilities or to otherwise recognize or create third party beneficiaries to this Franchise.
- M. Nothing in this Franchise shall be construed to permit Franchisee to unlawfully enter or construct improvements upon the property or premises of another.
- N. Nothing in this Franchise authorizes Franchisee to enter or construct improvements on, in, under, over, across, or within any property or right-of-way of any third party without that party's permission.

Section 3. Term. Authorization granted under this Franchise shall be for a period of five (5) years from the effective date of this Franchise. The franchise will automatically renew for one successive period of five (5) years unless terminated at the end of the term by either party by written notice to the other party no less than 180 calendar days prior to the end of the term.

Section 4. Location of Facilities.

- A. Franchisee must place its facilities underground except as otherwise expressly provided herein. Subject to the terms and conditions of this Franchise, Franchisee may place optical cable, optical cable housing, and splicing connections on existing utility poles as overhead facilities if approved by the owner of the utility poles. All other facilities, including, without limitation, facilities required to operate or maintain such optical cable and optical cable housing, and splicing connections must be underground facilities if they are located in a public way.
- B. Franchisee's facilities shall not unreasonably interfere with the use of public ways or City property by the City, the general public, or other persons authorized to enter, occupy, or use public ways or City property. Whenever new facilities will exhaust the capacity of a public way to reasonably accommodate future users or facilities, the Franchisee shall provide nondiscriminatory access to its facilities to future users and facilities.
- C. Franchisee shall not impair or damage any City property, public way, other ways or other property, whether publicly or privately owned.
- D. Franchisee shall provide the City with information in such form requested by the City which accurately reflects the horizontal and vertical location and configuration of all of Franchisee's facilities. Franchisee shall provide the City with updated information annually or upon request by the City.

- E. Franchisee shall relocate its facilities at the request of the City when there is construction, alteration, repair or improvement of a public way. Franchisee shall complete the relocation by the date specified by the City or as mutually agreed upon with the District, unless the City, or a reviewing court, establishes a later date for completion, after a showing by Franchisee that the relocation cannot be completed by the dates specified using best efforts and meeting safety and service requirements. Franchisee shall relocate its facilities at its expense except:
- (1) Where the Franchisee had paid for the relocation costs of the same facilities at the request of the City within the past five (5) years, the Franchisee's share of the cost of relocation will be paid by the City if it requested the subsequent relocation.
 - (2) Where the Franchisee has an ownership share of the existing utility poles upon which its optical cable and optical cable housing is located as overhead facilities, the additional incremental cost of underground to aerial relocation, or as provided for in an approved tariff if less, will be paid by the City if it required the underground relocation.
 - (3) Where the City requests relocation of underground facilities solely for aesthetic purposes, the cost of relocation shall be paid by the City; provided, however, in no event shall a request by the City to relocate overhead facilities to underground be considered to be made for aesthetic purposes. Franchisee is authorized to place optical cable and optical cable housing on existing utility poles as overhead facilities only as an exception to pre-existing City policies which require undergrounding, and the cost of relocating overhead facilities to underground shall be paid by the Franchisee except as provided in Section 4(E)(2).
 - (4) Where the construction, alteration, repair or improvement of a public way is primarily for private benefit, the Franchisee may seek reimbursement from the private party or parties for the cost of relocation in the same proportion as their contribution to the costs of the project; provided, however, in no event shall the City be considered a private party for purposes of seeking reimbursement under this section.
- F. Franchisee shall relocate its facilities at its expense at the request of the City in the event of an unforeseen emergency that creates an immediate threat to the public safety, health or welfare.

Section 5. Pole, Structures and Property Owned by Others. Franchisee must obtain written approval from the owners of utility poles, structures and property not owned by Franchisee prior to attaching to or otherwise using such poles, structures or property, and provide proof of such approval to the City. The City makes no representation and assumes no responsibility for the availability of utility poles, structures, and property owned by third parties for the installation of

Franchisee's facilities. The City shall not be liable for the unavailability of utility poles, structures, and property owned by third parties for any reason whatsoever. The installation of facilities by Franchisee on or in the poles, structures, or property owned by others shall be subject to and limited by the owner's authority to enter, occupy, and use public ways. In the event that the authority of the owner of poles, structures, or property to enter, occupy, and use the public ways either expires, terminates, or is cancelled, the authority of Franchisee to construct, install, operate, maintain, and repair Franchisee's facilities at such locations may be immediately cancelled at the sole option of the City. The City shall not be liable for the costs for removal of facilities arising from expiration, termination, or cancellation of any pole owner's authority to enter, occupy, or use public ways for any reason whatsoever.

Section 6. Construction and Installation Requirements.

- A. The technical performance of the facilities must meet or exceed all applicable technical standards required by law, regardless of the transmission technology utilized. The City will have the full authority permitted by applicable law to enforce compliance with these technical standards.
- B. All installations of facilities will be durable and installed in accordance with good engineering, construction, and installation practices.
- C. All facilities shall be constructed and installed in such manner and at such points so as not to inconvenience public use of the public ways or to adversely affect the public health, safety or welfare and in conformity with plans approved by the City, except in instances in which deviation may be allowed by the City.
- D. The plans shall conform to all federal, state, local, and industry codes, rules, regulations, and standards. Franchisee must cease work immediately if the City determines that Franchisee is not in compliance with such codes, rules, regulations, or standards, and may not begin or resume work until Franchisee is in compliance. The City shall not be liable for any costs arising out of delays occurring as a result of such work stoppage.
- E. Neither approval of plans by the City nor any action or inaction by the City shall relieve Franchisee of any duty, obligation, or responsibility for the competent design, construction, and installation of its facilities. Franchisee is solely responsible for the supervision, condition, and quality of the work done, whether it is performed by itself or by its contractors, agents, or assigns.

Section 7. Bonding Requirement.

- A. The Parties agree that Pursuant to RCW 35A.47.040, the City can require the Franchisee to file a bond; however the District is a public agency and as such the City is not requiring the Franchisee to file a bond upon acceptance of this Franchise. In lieu of requiring the bond upon acceptance the City reserves the right to require the Franchisee to file a bond

with the City in the event it finds the Franchisee or its contractors, subcontractors, or agents have failed to perform the “Bonded Obligations” as noted below. The Franchisee shall, within thirty (30) days after notice from the City that a bond will be required, file with the City, and at times thereafter, maintain in full force and effect for the term of this Franchise, a bond executed by the Franchisee and a corporate surety authorized to do surety business in the State of Washington, with an AM Best rating of A XII. The amount shall be as provided in Section 7.C and shall secure performance of the Franchisee’s obligations. The bond shall be in a manner and form reasonably acceptable to the City and secure the Franchisee’s faithful performance of the Bonded Obligations and provide recovery on the bond in case of the Franchisee’s failure to perform the Bonded Obligations. The Franchisee may meet the obligations of this section with one (1) or more bonds reasonably acceptable to the City. In the event that a bond furnished pursuant to this section is canceled by the surety, after proper notice and pursuant to the terms of said bond, the Franchisee shall, prior to the expiration of said bond, procure a replacement bond which complies with the terms of this section.

- B. In the event the Franchisee shall fail to perform any Bonded Obligations in undertaking any work or other activities within the Franchise Area authorized by this Franchise, and further fails to cure its deficiency within the time period identified in the City’s written notice of such deficiency, then the City may recover jointly and severally from the Franchisee and the surety of such bond to ensure performance of the Bonded Obligations. This section shall be a continuing obligation for the duration of this Franchise and thereafter until the Franchisee has discharged all of its Bonded Obligations under this Franchise.
- C. The bond filed in accordance with the requirements of this Section 7 shall be in the amount of Twenty-Five Thousand Dollars and No/100 (\$25,000), but may be increased from time to time by mutual agreement of the parties if the volume of work being undertaken by the Franchisee within the Franchise Area under this Franchise at any given point in time materially increases such that an increase in the bond amount is reasonably necessary to provide adequate protection to the City for the Bonded Obligations covered by such work.
- D. In the event the City intends to execute on or seek recovery under any bond(s) furnished by the Franchisee pursuant to this Section 7, the City shall promptly provide written notice of same to the Franchisee. If the City successfully executes on any such bond, the Franchisee shall promptly obtain a replacement bond in like amount and/or take such other action as is reasonably necessary to ensure that the bond(s) required by this Section 7 are maintained in full force and effect for the term of this Franchise.
- E. The rights reserved to the City by this Section 7 are in addition to other rights of the City whether reserved by this Franchise or authorized by law, and not action, proceeding, or exercise of right under this Section 7 shall constitute an election or waiver of any rights or other remedies the City may have.

Section 8. Coordination of Construction and Installation Activities and Other Work.

- A. Franchisee shall coordinate its construction and installation activities and other work with the City and other users of the public ways.
- B. All construction or installation locations, activities and schedules shall be mutually coordinated between the City and Franchisee to minimize public inconvenience, disruption or damages.
- C. At least two (2) business days prior to entering a public way to perform construction and installation activities or other work, Franchisee shall give notice, at its cost, to owners and occupiers of property adjacent to such public ways indicating the nature and location of the work to be performed. Franchisee shall make a good faith effort to comply with the property owner or occupier's preferences, if any, on location or placement of underground facilities, consistent with sound engineering practices.
- D. Franchisee shall make available and accept the co-location of property of others within trenches excavated or used by Franchisee in the public ways provided the costs of the work are fairly allocated between the parties.
- E. Franchisee shall provide the City with a schedule of its proposed construction or installation activities and other work in, around, or that may affect the public ways or City property once determined by the Franchisee.
- F. The City shall give reasonable advance notice to Franchisee of plans to open public ways for construction or installation of facilities; provided, however, the City shall not be liable for damages for failure to provide such notice. When such notice has been given, Franchisee shall provide information requested by the City regarding Franchisee's future plans for use of the public way to be opened. When notice has been given, Franchisee may only construct or install facilities during such period that the City has opened the public way for construction or installation.
- G. In the event of any emergency where any Facilities located in the Franchise Area are broken or damaged, or if the Franchisee's work area within the Franchise Area is in such a condition as to endanger any person or property, the Franchisee may immediately take any necessary emergency measures to repair or remove its Facilities or otherwise make its work area safe without first applying for and obtaining a permit as required by Section 13. This provision shall not relieve the Franchisee from later obtaining any necessary permit for the emergency work. The Franchisee shall apply for the required permit the next business day following the emergency work or, in the case of an extended state of emergency, as soon thereafter as practical. Emergency work that did not disturb the integrity of the public improvements within the public right-of-way is excluded from obtaining a permit after the fact.

No permit or traffic plan is required to be submitted for:

- i. Spot maintenance work on neighborhood residential streets that takes less than 2 hours at the location when no ground excavation is being done.
- ii. Scheduled aerial work or tree trimming on neighborhood residential streets when no ground excavation is being done.
- iii. Same location pole change out or replacement work is being performed on neighborhood residential streets as long as sidewalks, curbs, gutters, or paved surfaces are not disturbed.

The Franchisee shall at all times post and maintain proper barricades and traffic control and comply with all applicable safety regulations during any period of construction or maintenance activities within the right-of-way as required by City or state regulations, including RCW 39.04.180, for the construction of trench safety systems. The Franchisee shall set up and maintain proper traffic control for all lane closures, and shall avoid where possible doing lane closures during the peak traffic hours from 6:30am – 8:30am and 3:30pm – 6:00pm.

Section 9. Temporary Removal, Adjustment or Alteration of Facilities.

- A. Franchisee shall temporarily remove, adjust or alter the position of its facilities at its cost at the request of the City for public projects, events, or other public operations or purposes.
- B. If any person requests permission from the City to use a public way for the moving or removal of any building or other object, the City shall, prior to granting such permission, require such person or entity to make any necessary arrangements with Franchisee for the temporary removal, adjustment or alteration of Franchisee's facilities to accommodate the moving or removal of said building or other object. In such event, Franchisee shall, at the cost of the person desiring to move or remove such building or other object, remove, adjust or alter the position of its facilities which may obstruct the moving or removal of such building or other object, provided that:
 - (1) The moving or removal of such building or other object which necessitates the temporary removal, adjustment or alteration of facilities shall be done at a reasonable time and in a reasonable manner so as to not unreasonably interfere with Franchisee's business, consistent with the maintenance of proper service to Franchisee's customers;
 - (2) Where more than one route is available for the moving or removal of such building or other object, such building or other object shall be moved or removed along the route which causes the least interference with the operations of Franchisee, in the sole discretion of the City;

- (3) The person obtaining such permission from the City to move or remove such building or other object may be required to indemnify and save Franchisee harmless from any and all claims and demands made against it on account of injury or damage to the person or property of another arising out of or in conjunction with the moving or removal of such building or other object, to the extent such injury or damage is caused by the negligence of the person moving or removing such building or other object or the negligence of the agents, servants or employees of the person moving or removing such building or other object; and
 - (4) Completion of notification requirements by a person who has obtained permission from the City to use a public way for the moving or removal of any building or other object shall be deemed to be notification by the City.
- C. The City may temporarily remove, adjust or alter the position of Franchisee's facilities as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. The City shall not be liable to Franchisee or any other party for any direct, indirect, or other damages suffered as a direct or indirect result of the City's actions.
 - D. The temporary removal, adjustment or alteration of the position of Franchisee's facilities shall not be considered relocation for any purpose whatsoever.

Section 10. Safety and Maintenance Requirements.

- A. All work authorized and required under this Franchise will be performed in a safe, thorough, and workmanlike manner.
- B. Franchisee, in accordance with applicable federal, state, and local safety requirements shall, at all times, employ ordinary care and shall use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury, or nuisance to occur. All facilities, wherever situated or located, shall at all times be kept in a good, safe, and suitable condition. If a violation of a safety code or other applicable regulation is found to exist by the City, the City may, after discussions with Franchisee, establish a reasonable time for Franchisee to make necessary repairs. If the repairs are not made within the established time frame, the City may make the repairs itself at the cost of the Franchisee or have them made at the cost of Franchisee.
- C. Franchisee, and any person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares, and other measures as required for the safety of all members of the general public during the performance of work, of any kind whatsoever, in public ways to prevent injury or damage to any person, vehicle, or property.
- D. Franchisee shall maintain its facilities in proper working order. Franchisee shall restore its facilities to proper working order upon receipt of notice from the City that facilities are not in proper working order. The City may, after discussions with Franchisee, establish a

reasonable time for Franchisee to restore its facilities to proper working order. If the facilities are not restored to proper working order within the established time frame, the City may restore the facilities to proper working order or have them restored at the cost of Franchisee.

Section 11. Removal of Unauthorized Facilities. Within ninety (90) days following written notice from the City, Franchisee shall, at its expense, remove unauthorized facilities and restore public ways and other property to as good a condition as existed prior to construction or installation of its facilities. Any plan for removal of said facilities must be approved by the City prior to such work. Facilities are unauthorized and subject to removal in the following circumstances:

- A. Upon expiration, termination, or cancellation of this Franchise;
- B. Upon abandonment of the facilities. Facilities shall be deemed abandoned if they are unused by Franchisee for a period of ninety (90) days;
- C. If the facilities were constructed or installed prior to the effective date of this Franchise; unless such facilities were constructed or installed upon the condition of subsequent approval of this Franchise with the consent of the City;
- D. If the facilities were constructed, installed, operated, maintained, or repaired without the prior issuance of required use and/or development authorization and permits;
- E. If the facilities were constructed or installed or are operated, maintained or repaired in violation of the terms or conditions of this Franchise; or
- F. If the facilities are unauthorized for any reason whatsoever.

Provided, however, that the City may, in its sole discretion, allow a Franchisee to abandon facilities in place. No facilities may be abandoned in place without the express written consent of the City. Upon consensual abandonment in place of facilities, the facilities shall become property of the City, and Franchisee shall submit to the City an instrument in writing, to be approved by the City, transferring to the City the ownership of such facilities. The failure of Franchisee to submit an instrument shall not prevent, delay, or impair transfer of ownership to the City.

Section 12. Restoration of Public Ways and Other Property.

- A. When Franchisee, or any person acting on its behalf, does any work in or affecting any public way or other property, it shall, at its own expense, promptly remove any obstructions therefrom and restore, at Franchisee's cost, such ways and property to as near as is practical and per City of Kennewick's adopted Standard Specifications and Details, in each case as reasonably necessary to restore the integrity of the paving disturbed by the District's work. All survey monuments which are disturbed or displaced by such work shall be referenced and restored per WAC 332-120, as the same now exists or may

hereafter be amended, and all pertinent federal, state, and City standards and specifications. The City Manager or designee shall have final approval of the condition of the Franchise Area after restoration.

- B. If weather or other conditions do not permit the complete restoration required by this section, the Franchisee shall temporarily restore the affected ways or property. Such temporary restoration shall be at the Franchisee's cost, and Franchisee lessee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.
- C. All restoration work is subject to inspection and final approval by the City. If restoration is not made to the satisfaction of the City, the City shall provide the Franchisee with written notice including a description of actions the City reasonably believes necessary to restore the Franchise Area. If the Franchise Area is not restored in accordance with the City's notice within thirty (30) days of that notice, the City, or its authorized agent, may restore the Franchise Area. The Franchisee shall be responsible for and pay all costs and expenses incurred by the City in restoring the Franchise Area in accordance with this section. The Franchisee shall pay said costs and expenses within thirty (30) days of receipt of the City's billing for such work, including City overhead (provided that in no event shall such overhead exceed 10% of the total costs, fees and expenses). The remedy granted to the City under this section shall be in addition to those otherwise provided by this Franchise.

Section 13. Use and/or Development Authorization and Permits. Franchisee shall obtain use and/or development authorization and required permits from the City and all other appropriate regulatory authorities prior to constructing or installing facilities or performing other work in a public way. The City must act on applications for use and/or development authorization or required permits within thirty (30) days of receipt of a completed application, unless Franchisee consents to a different time period.

- A. Franchisee shall provide the following information for all facilities that it proposes to construct or install:
 - (1) Engineering plans, specifications and a network map of the proposed facilities and their relation to existing facilities, in a format and media requested by the City in sufficient detail to identify:
 - a. The location and route of the proposed facilities;
 - b. When requested by the City, the location of all overhead and underground public utility, telecommunication, cable, water, sewer, drainage and other facilities in the public way along the proposed route;
 - c. When requested by the City, the location(s), if any, for interconnection with the telecommunication facilities of others;
 - d. The specific trees, structures, improvements, facilities and obstructions, if any, that Franchisee proposes to temporarily or permanently alter, remove or relocate.

- (2) If Franchisee is proposing to install overhead facilities, evidence of Franchisee's authorization to use each utility pole along the proposed route together with any conditions of use imposed by the pole owner(s) for each pole; if the overhead facilities are subsequently relocated underground, the Franchisee shall relocate underground at no cost to the City.
 - (3) If Franchisee is proposing to install underground facilities in existing ducts or conduits within the public ways, information in sufficient detail to identify:
 - a. The intended use of Franchisee's duct or conduit system including the type and size of cable to be installed.
 - (4) If Franchisee is proposing to install underground facilities in new ducts or conduits within the public ways:
 - a. The location proposed for new ducts or conduits;
 - b. The number new of ducts or conduits;
 - c. The size of new ducts or conduits.
 - d. The intended use of Franchisee's duct or conduit system including the type and size of cable to be installed
 - (5) A preliminary construction schedule and completion date together with a traffic control plan in compliance with the Manual on Uniform Traffic Control Devices (MUTCD) for any construction.
 - (6) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities.
 - (7) Such other documentation and information regarding the facilities requested by the City.
- B. The requirements of this section do not apply to installation of optical cable necessary to connect a customer of Franchisee to a previously approved facility; provided that neither excavation nor trenching in the public right of way is required, that the optical cable connection meets or exceeds all applicable technical standards required by law, that the optical cable connection is durable and installed in accordance with good engineering, construction, and installation practices and does not interfere with the public use of the public ways, or adversely affect public health safety or welfare, that the optical cable connection is constructed and installed to conform to all federal, state, local, and industry codes, rules, regulations, and standards, and that the optical cable connection does not damage or impair the City's urban forest.
- C. The requirements of this section do not apply to repair or maintenance of previously approved overhead facility; provided that the location and size of the previously approved facility is not materially changed, that no additional new facilities are constructed or installed, that the repair or maintenance activities are conducted in accordance with good engineering, repair, and maintenance practices and do not interfere with the public use of

the public ways, or adversely affect public health, safety, or welfare, that maintenance or repair activities conform to all federal, state, local, and industry codes, rules, regulations, and standards, and that the repair or maintenance activities comply with Chapter 5.56 of the Kennewick Municipal Code.

Section 14. Indemnification.

- A. Franchisee releases, covenants not to bring suit, and agrees to indemnify, defend, and hold harmless the City, its officers, employees, agents, volunteers and representatives from any and all claims, costs, judgments, awards, or liability to any person, for injury or death of any person, or damage to property caused by or arising out of any acts or omissions of Franchisee, its agents, servants, officers, or employees in the performance of this Franchise and any rights granted within this Franchise. Further, Franchisee shall indemnify, defend and hold harmless the City, its officers, employees, agents, volunteers and representatives from any and all claims, costs, judgments, awards or liability to any person arising from radio frequency emissions or radiation emitted from Franchisee's Facilities located in the Rights-of-Way, regardless of whether Franchisee's equipment complies with applicable federal statutes and/or FCC regulations related thereto. These indemnification obligations shall extend to claims that are not reduced to a suit and any claims that may be compromised, with Franchisee's prior written consent, prior to the culmination of any litigation or the institution of any litigation.

- B. Inspection or acceptance by the City of any work performed by Franchisee at the time of completion of construction shall not be grounds for avoidance by Franchisee of any of its obligations under this Section 14.

- C. The City shall promptly notify Franchisee of any claim or suit and request in writing that Franchisee indemnify the City. Franchisee may choose counsel to defend the City subject to this Section 14.C. City's failure to so notify and request indemnification shall not relieve Franchisee of any liability that Franchisee might have, except to the extent that such failure prejudices Franchisee's ability to defend such claim or suit. In the event that Franchisee refuses the tender of defense in any suit or any claim, as required pursuant to the indemnification provisions within this Franchise, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Franchisee, Franchisee shall pay all of the City's reasonable costs for defense of the action, including all expert witness fees, costs, and attorney's fees, and including costs and fees incurred in recovering under this indemnification provision. If separate representation to fully protect the interests of both parties is necessary, such as a conflict of interest between the City and the counsel selected by Franchisee to represent the City, then upon the prior written approval and consent of Franchisee, which shall not be unreasonably withheld, the City shall have the right to employ separate counsel in any action or proceeding and to participate in the investigation and defense thereof, and Franchisee shall pay the reasonable fees and expenses of such separate counsel, except that Franchisee shall not be required to pay the fees and expenses of separate counsel on behalf of the City for the

City to bring or pursue any counterclaims or interpleader action, equitable relief, restraining order or injunction. The City's fees and expenses shall include all out-of-pocket expenses, such as consultants and expert witness fees, and shall also include the reasonable value of any services rendered by the counsel retained by the City but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Franchisee. Each party agrees to cooperate and to cause its employees and agents to cooperate with the other party in the defense of any such claim and the relevant records of each party shall be available to the other party with respect to any such defense.

- D. It is further specifically and expressly understood that the indemnification provided constitutes Franchisee's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification, relating solely to indemnity claims made by the City directly against the Franchisee for claims made against the City by Franchisee's employees. This waiver has been mutually negotiated by the parties.
- E. In no event shall the City be liable for any indirect, incidental, special, consequential, exemplary, or punitive damages, including by way of example and not limitation lost profits, lost revenue, loss of goodwill, or loss of business opportunity in connection with the District's performance or failure to perform under this Franchise.
- F. The provisions of this Section 14 shall survive the expiration, revocation, or termination of this Franchise.

Section 15. Insurance.

- A. Franchisee shall procure and maintain for so long as Franchisee has Facilities in the Public Ways, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the acts or omissions of Franchisee. Franchisee shall procure insurance from insurers with a current A.M. Best rating of not less than A.

In lieu of purchasing a stand-alone insurance policy, if Franchisee is a member of a risk pool in good standing in the State of Washington, Franchisee may satisfy the requirements of Section 15 by providing an Evidence of Coverage Letter from its risk pool demonstrating Franchisee is a member and is afforded the coverage levels required by this Franchise for the risks noted in 15.A (a)-(e).

Franchisee shall provide a copy of a certificate of insurance and additional insured endorsement, or the Evidence of Coverage Letter noted above, to the City for its inspection at the time of acceptance of this Franchise, and such insurance certificate or letter shall evidence a policy of insurance that includes:

- (a) Automobile Liability insurance with limits of no less than \$5,000,000 combined single limit per occurrence for bodily injury and property damage;

- (b) Commercial General Liability insurance, written on an occurrence basis with limits of no less than \$5,000,000 per occurrence for bodily injury and property damage and \$5,000,000 general aggregate including personal and advertising injury, blanket contractual; premises; operations; independent contractors; products and completed operations; and broad form property damage; explosion, collapse and underground (XCU);
 - (c) Pollution liability shall be in effect throughout the entire Franchise term, with a limit of one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) in the aggregate;
 - (d) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and Employer's Liability with a limit of \$1,000,000 each accident/disease/policy limit. Evidence of qualified self-insurance is acceptable; and
 - (e) Excess Umbrella liability policy with limits of no less than \$5,000,000 per occurrence and in the aggregate. Franchisee may use any combination of primary and excess to meet required total limits.
- B. Payment of deductible or self-insured retention shall be the sole responsibility of Franchisee. Franchisee may utilize primary and umbrella liability insurance policies to satisfy the insurance policy limits required in this Section 15. Franchisee's umbrella liability insurance policy shall provide "follow form" coverage over its primary liability insurance policies.
- C. The required insurance policies, or evidence of risk pool coverage with the exception of Workers' Compensation and Employer's Liability obtained by Franchisee shall include the City, its officers, officials, employees, agents, and volunteers ("Additional Insureds"), as an additional insured with regard to activities performed by or on behalf of Franchisee, with coverage at least as broad as Additional Insured Managers Lessors of Premises ISO form CG 20 11. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the limits of the insurer's liability. Franchisee shall provide to the City upon acceptance a certificate of insurance and blanket additional insured endorsement, or evidence of coverage letter. Receipt by the City of any certificate or evidence of coverage letter showing less coverage than required is not a waiver of Franchisee's obligations to fulfill the requirements. Franchisee's required general and auto liability insurance shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of Franchisee's required insurance and shall not contribute with it.
- D. Upon receipt of notice from its insurer(s) Franchisee shall provide the City with thirty

(30) days prior written notice of any cancellation of any insurance policy, required pursuant to this Section 15. Franchisee shall, prior to the effective date of such cancellation, obtain replacement insurance policies meeting the requirements of this Section 15. Failure to provide the insurance cancellation notice and to furnish to the City replacement insurance policies meeting the requirements of this Section 15 shall be considered a material breach of this Franchise and subject to the City's election of remedies described in Section 24 below. Notwithstanding the cure period described in Section 24, the City may pursue its remedies immediately upon a failure to furnish replacement insurance.

- E. Franchisee's maintenance of insurance as required by this Section 15 shall not be construed to limit the liability of Franchisee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or equity. Further, Franchisee's maintenance of insurance policies required by this Franchise shall not be construed to excuse unfaithful performance by Franchisee. If Franchisee maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess Umbrella liability maintained by the Franchisee, irrespective of whether such limits maintained by the Franchisee are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Franchisee.
- F. The City may review all insurance limits at the end of each Term of the Franchise Agreement and may make reasonable adjustments in the limits upon thirty (30) days' prior written notice to Franchisee. Franchisee shall then issue a certificate of insurance to the City showing compliance with these adjustments. Upon request by the City, Franchisee shall furnish certified copies of all required insurance policies, including endorsements, required in this Franchise and evidence of all contractors' coverage.

As of the Effective Date of this Franchise, Franchisee is not self-insured. Should Franchisee wish to become self-insured at the levels outlined in this Franchise at a later date. Franchisee or its affiliated parent entity shall comply with the following: (i) provide the City, upon request, a copy of Franchisee's, or its parent company's, most recent audited financial statements, if such financial statements are not otherwise publicly available; (ii) Franchisee or its parent company is responsible for all payments within the self-insured retention; and (iii) Franchisee assumes all defense and indemnity obligations as outlined in the indemnification section of this Franchise.

Section 16. Applicable Taxes, Charges, and Fees.

- A. Franchisee shall pay and be responsible for all charges and fees imposed to recover actual administrative expenses incurred by the City that are directly related to receiving and approving this Franchise, any use and/or development authorizations which may be required, or any permit which may be required, to inspecting plans and construction, or to the preparation of a detailed statement pursuant to RCW Ch. 43.21C. Regular application

and processing charges and fees imposed by the City shall be deemed to be attributable to actual administrative expenses incurred by the City but shall not excuse Franchisee from paying and being responsible for other actual administrative expenses incurred by the City.

- B. Franchisee shall pay and be responsible for taxes permitted by law.
- C. The District shall pay a franchise processing fee to the City of One Thousand Two-Hundred Fifty Dollars (\$1,250.00).

Section 17. Additional Ducts and Conduits. When the Franchisee is installing ducts and conduits in City right-of-way, the Franchisee shall inform the City and give the City the opportunity to install additional ducts or conduits for City purposes in a jointly shared trench. The City will reimburse the Franchisee for the incremental cost of the additional City ducts or conduits and related structures such as junction boxes. Such ducts and conduits shall be readily accessible and available for governmental use as determined by the City in its sole discretion. Such ducts and conduits shall not be used to provide telecommunications or cable television service for hire, sale, or resale to the general public unless otherwise agreed by the parties. The City shall not be charged or responsible for any more than the incremental costs to construct and install such ducts and conduits, and the City shall not be charged or responsible for any use, maintenance, or repair costs.

Section 18. Acquisition of Facilities. Upon Franchisee's acquisition of any facilities in the public way, or upon any addition or annexation to the City of any area in which Franchisee has facilities, such facilities shall immediately be subject to the terms of this Franchise without further action of the City or Franchisee.

Section 19. One-Call System. Franchisee is responsible for complying with the provisions of Washington's One-Call statutes: RCW Ch. 19.122.

Section 20. Vacation of Public Ways. The City reserves the right to vacate any public way which is subject to rights, privileges, and authority granted by this Franchise. If Franchisee has facilities in such public way, the City shall reserve an easement for Franchisee.

Section 21. Duty to Provide Information. Within ten (10) days, or as mutually agreed upon based on the volume of the information request, of a written request from the City, Franchisee shall furnish the City with all requested information sufficient to demonstrate:

- A. That Franchisee has complied with all requirements of this Franchise;
- B. That taxes, fees, charges, or other costs owed or payable by Franchisee have been properly collected and paid; and
- C. Franchisee's obligations under this section are in addition to those provided in subsection 4(E).

Section 22. Records.

- A. Franchisee will manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the City. The City will have access to, and the right to inspect, any documents and records of Franchisee and its affiliates that are reasonably necessary for the enforcement of this Franchise or to verify Franchisee's compliance with terms or conditions of this Franchise. Franchisee will not deny the City access to any of Franchisee's records on the basis that Franchisee's documents or records are under the control of any affiliate or a third party.

- B. All documents and records maintained by Franchisee shall be made available for inspection by the City at reasonable times and intervals; provided, however, that nothing in this section shall be construed to require Franchisee to violate state or federal law regarding subscriber privacy, nor shall this section be construed to require Franchisee to disclose proprietary or confidential information without adequate safeguards for its confidential or proprietary nature.

- C. One copy of documents and records requested by the City will be furnished to the City at the cost of Franchisee. If the requested documents and records are too voluminous or for security reasons cannot be copied or removed, then Franchisee may request, in writing within ten (10) days of the City's request, that the City inspect them at Franchisee's local office. If any documents or records of Franchisee are not kept in a local office and/or are not made available in copies to the City, and if the City determines that an examination of such documents or records is necessary or appropriate for the enforcement of this Franchise, or to verify Franchisee's compliance with terms or conditions of this Franchise, then all reasonable travel and related costs incurred in making such examination shall be paid by Franchisee.

Section 23. Assignment or Transfer. Franchisee's rights, privileges, and authority under this Franchise, and ownership or working control of facilities constructed or installed pursuant to this Franchise, may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of Franchisee, by operation of law or otherwise, except as provided herein, or without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed. Any transfer, assignment or disposal of Franchisee's rights, privileges, and authority under this Franchise, or ownership or working control of facilities constructed or installed pursuant to this Franchise, may be subject to reasonable conditions as may be prescribed by the City.

- A. No rights, privileges, or authority under this Franchise shall be assigned, transferred, or disposed of in any manner within twelve (12) months after the effective date of this Franchise.

- B. Absent extraordinary and unforeseeable circumstances, no facility shall be assigned, transferred, or disposed of before construction of the facility has been completed and restoration has been performed to the satisfaction of the City.
- C. Franchisee and the proposed assignee or transferee shall provide and certify the following information to the City not less than one hundred and fifty (150) days prior to the proposed date of assignment, transfer, or disposal:
 - (1) Complete information setting forth the nature, terms and condition of the proposed assignment, transfer, or disposal;
 - (2) Any other information reasonably required by the City; and
 - (3) A transfer application fee in an amount to be determined by the City to recover actual administrative costs directly related to receiving and approving the proposed assignment, transfer, or disposal.
- D. No assignment, transfer, or disposal may be made or shall be approved unless the assignee or transferee has the legal, technical, financial, and other requisite qualifications to operate, maintain, repair, and remove facilities constructed or installed pursuant to this Franchise and to comply with the terms and conditions of this Franchise.
- E. Any transfer, assignment, or disposal of rights, privileges, and authority under this Franchise or ownership or working control of facilities constructed or installed pursuant to this Franchise, without prior written approval of the City pursuant to this section shall be void and is cause for termination of this Franchise.
- F. Any transactions which singularly or collectively result in a change of fifty percent (50%) or more of the ownership or working control of the Franchisee, of the ownership or working control of affiliated entities having ownership or working control of Franchisee, or of control of the telecommunications capacity or bandwidth of Franchisee, shall be considered an assignment or transfer requiring City approval. Transactions between affiliated entities are not exempt from City approval. Franchisee shall promptly notify the City prior to any proposed change in, or transfer of, or acquisition by any other party of control of Franchisee. Every change, transfer, or acquisition of control of Franchisee shall cause a review of the proposed transfer. City approval shall not be required for mortgaging purposes or if said transfer is from Franchisee to another person controlled by Franchisee.
- G. All terms and conditions of this Franchise shall be binding upon all successors and assigns of Franchisee and all persons who obtain ownership or working control of any facility constructed or installed pursuant to this Franchise.

Section 24. Violations, Noncompliance, and Other Grounds for Termination or Cancellation.

- A. This Franchise, and any right, privilege or authority of Franchisee to enter, occupy or use public ways may be terminated or cancelled by the City for the following reasons:
- (1) Violation of or noncompliance with any term or condition of this Franchise by Franchisee;
 - (2) Violation of or noncompliance with the material terms of any use and/or development authorization or required permit by Franchisee;
 - (3) Construction, installation, operation, maintenance, or repair of facilities on, in, under, over, across, or within any public way without Franchisee first obtaining use and/or development authorization and required permits from the City and all other appropriate regulatory authorities;
 - (4) Unauthorized construction, installation, operation, maintenance, or repair of facilities on City property;
 - (5) Misrepresentation or lack of candor by or on behalf of Franchisee in any application or written or oral statement upon which the City relies in making the decision to grant, review or amend any right, privilege or authority to Franchisee;
 - (6) Abandonment of facilities;
 - (7) Failure of Franchisee to pay taxes, fees, charges or costs when and as due; or
 - (8) Insolvency or bankruptcy of Franchisee.
- B. In the event that the City believes that grounds exist for termination or cancellation of this Franchise or any right, privilege or authority of Franchisee to enter, occupy or use public ways, Franchisee shall be given written notice, and providing Franchisee a reasonable period of time not exceeding thirty (30) days to furnish evidence:
- (1) That corrective action has been, or is being actively and expeditiously pursued, to remedy the violation, noncompliance, or other grounds for termination or cancellation;
 - (2) That rebuts the alleged violation, noncompliance, or other grounds for termination or cancellation; or
 - (3) That it would be in the public interest to impose some penalty or sanction less than termination or cancellation.
- C. In the event that Franchisee fails to provide evidence reasonably satisfactory to the City as provided in subsection (B) of this section, the City shall refer the apparent violation, noncompliance, or other grounds for termination or cancellation to the City Council. The City Council shall provide the Franchisee with notice and a reasonable opportunity to be heard concerning the matter.
- D. If the City Council determines that the violation, noncompliance, or other grounds for termination or cancellation arose from willful misconduct or gross negligence by Franchisee, then, Franchisee shall, at the election of the City Council, forfeit all rights,

damage, protect the health and safety of the public and repair facilities to restore them to proper working order. Annually, on request of the City, Franchisee will meet with City emergency response personnel to coordinate emergency management operations and, at least once a year, at the request of the City, actively participate in emergency preparations.

Section 26. Non-Waiver. The failure of the City to exercise any rights or remedies under this Franchise or to insist upon compliance with any terms or conditions of this Franchise shall not be a waiver of any such rights, remedies, terms or conditions of this Franchise by the City and shall not prevent the City from demanding compliance with such terms or conditions at any future time or pursuing its rights or remedies.

Section 27. Eminent Domain. This Franchise is subject to the power of eminent domain and the right of the City Council to repeal, amend or modify the Franchise in the interest of the public. In any proceeding under eminent domain, the Franchise itself shall have no value.

Section 28. Limitation of Liability. Administration of this Franchise may not be construed to create the basis for any liability on the part of the City, its elected officials, officers, employees, servant, agents, and representatives for any injury or damage from the failure of the Franchisee to comply with the provisions of this Franchise; by reason of any plan, schedule or specification review, inspection, notice and order, permission, or other approval or consent by the City; for any action or inaction thereof authorized or done in connection with the implementation or enforcement of this Franchise by the City; or for the accuracy of plans submitted to the City.

Section 29. Damage to Facilities. Unless directly and proximately caused by the active sole negligence of the City, the City shall not be liable for any damage to or loss of any facilities as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind on, in, under, over, across, or within a public way done by or on behalf of the City.

Section 30. Governing Law and Venue. This Franchise and use of the applicable public ways will be governed by the laws of the State of Washington, unless preempted by federal law. Franchisee agrees to be bound by the laws of the State of Washington, unless preempted by federal law, and subject to the jurisdiction of the courts of the State of Washington. Any action relating to this Franchise must be brought in the Superior Court of Washington for Benton County, or in the case of a federal action, the United States District Court for the Eastern District of Washington at Richland, Washington, unless an administrative agency has primary jurisdiction.

Section 31. Severability. If any section, sentence, clause or phrase of this Franchise or its application to any person or entity should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality will not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Franchise nor its application to any other person or entity; provided that, if any term or condition of this Franchise relating to Franchisee's right, privilege, or authority to place optical cable, optical cable housing,

and splicing connections on existing utility poles as overhead facilities is held to be invalid or unconstitutional by a court of competent jurisdiction, Franchisee's authority to construct, install, operate, maintain, or repair overhead facilities shall be deemed void *ab initio*, any overhead facilities shall be deemed to be unauthorized, and Franchisee shall be authorized only to place facilities underground.

Section 32. Miscellaneous.

- A. Equal Employment and Nondiscrimination. Throughout the term of this Franchise, Franchisee will fully comply with all equal employment and nondiscrimination provisions and requirements of federal, state, and local laws, and in particular, FCC rules and regulations relating thereto.
- B. Descriptive Headings. The headings and titles of the sections and subsections of this Franchise are for reference purposes only and do not affect the meaning or interpretation of the text herein.
- C. Costs and Attorneys' Fees. If any action or suit arises in connection with this Franchise, the substantially prevailing party will be entitled to recover all of its reasonable costs, including attorneys' fees, as well as costs and reasonable attorneys' fees on appeal, in addition to such other relief as the court may deem proper.
- D. No Joint Venture. Nothing herein will be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in any manner that would indicate any such relationship with the other.
- E. Mutual Negotiation. This Franchise was mutually negotiated by the Franchisee and the City and has been reviewed by the legal counsel for both parties. Neither party will be deemed to be the drafter of this Franchise.
- F. Third-Party Beneficiaries. There are no third-party beneficiaries to this Franchise.
- G. Entire Agreement. This Franchise represents the entire understanding and agreement between the parties with respect to the subject matter and supersedes all prior oral and written negotiations between the parties.
- H. Modification. The parties may alter, amend or modify the terms and conditions of this Franchise upon written agreement of both parties to such alteration, amendment or modification. Nothing in this subsection shall impair the City's exercise of authority reserved to it under this Franchise.
- I. Non-exclusivity. This Franchise does not confer any exclusive right, privilege, or authority to enter, occupy or use public ways for delivery of telecommunications services or any other purposes. This Franchise is granted upon the express condition that it will

not in any manner prevent the City from granting other or further franchises in, on, across, over, along, under or through any public way.

J. Rights Granted. This Franchise does not convey any right, title or interest in public ways, but shall be deemed only as authorization to enter, occupy, or use public ways for the limited purposes and term stated in this Franchise. Further, this Franchise shall not be construed as any warranty of title.

K. Contractors and Subcontractors. Franchisee's contractors and subcontractors must be licensed and bonded in accordance with the City's ordinances, rules, and regulations. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Franchisee.

Section 33. Publication. The City Clerk is authorized and directed to publish a summary hereof in accordance with Revised Code of Washington §§ 35A.13.200 and 35A.12.160.

Section 34. Effective Date. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law. The District shall provide written acceptance prior to passage of this ordinance.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 16th day of June, 2020, and signed in authentication of its passage this 16th day of June, 2020.

Attest:

DON BRITAIN, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5871 filed and recorded in the office of the City Clerk of the City of Kennewick, Washington this 17th day of June, 2020.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____

STATEMENT OF ACCEPTANCE

Public Utility District No. 1 of Benton County, for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached hereto and incorporated herein by this reference.

By: _____

Date: _____

Name: _____

Title: _____

STATE OF WASHINGTON)

) ss.

County of Benton)

On this ____ day of _____, 2020, before me the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared, _____ of PUBLIC UTILITY DISTRICT NO. 1 OF BENTON COUNTY, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

Notary Public in and for the State of Washington,
residing at _____.
My Commission Expires: _____

Council Agenda Coversheet



Agenda Item Number	5.b.	Council Date	06/16/2020
Agenda Item Type	Ordinance		
Subject	Electrical Power Franchise Agreement Benton PUD		
Ordinance/Reso #	5872	Contract #	
Project #		Permit #	
Department	Public Works		

Consent Agenda	<input type="checkbox"/>
Ordinance/Reso	<input checked="" type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

That Council adopt Ordinance 5872, granting a non-exclusive power franchise agreement to Benton PUD.

Motion for Consideration

I move to adopt Ordinance 5872.

Summary

Ordinance 5872 grants a new franchise agreement to Public Utility District No. 1 of Benton County (Benton PUD) for power facilities through June 16, 2025, with the ability to extend it to June 16, 2030.

The proposed negotiated franchise agreement has been updated with a number of provisions clarifying responsibilities of the parties. It also separates out fiber optic facilities operated by BPUD through NoaNet into its own franchise agreement.

Staff recommends adoption of the ordinance.

Alternatives

None recommended

Fiscal Impact

None.

Through	Bruce Mills Jun 04, 13:30:08 GMT-0700 2020
Dept Head Approval	Cary Roe Jun 10, 14:54:07 GMT-0700 2020
City Mgr Approval	Marie Mosley Jun 11, 20:14:34 GMT-0700 2020

Attachments:

Recording Required?

CITY OF KENNEWICK
ORDINANCE NO. 5872

AN ORDINANCE GRANTING TO PUBLIC UTILITY DISTRICT NO. 1 OF BENTON COUNTY, A MUNICIPAL CORPORATION, A NONEXCLUSIVE RIGHT AND FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE IN, OVER, UPON AND UNDER THE PRESENT AND FUTURE STREETS, ALLEYS, BRIDGES, HIGHWAYS, AND OTHER PUBLIC PLACES OF THE CITY OF KENNEWICK, WASHINGTON, ELECTRICAL POWER TRANSMISSION AND DISTRIBUTION LINES AND APPURTENANCES, SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED IN THIS ORDINANCE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Grant of Franchise and Term. The City of Kennewick, Benton County, Washington, hereinafter referred to as the City, hereby grants to Public Utility District No. 1 of Benton County, hereinafter referred to as the District or the Franchisee, a right and franchise for the period of five (5) years from and after the effective date of this Ordinance, to construct, maintain and operate in, over, upon and under the present and future streets, alleys, bridges, highways and other public places (all hereinafter referred to as "franchise area") within the present or future limits of the City, electric power transmission and distribution lines, and all necessary or desirable appurtenances thereto, for the purpose of transmitting electric power and energy. The franchise will automatically renew for one successive period of five (5) years unless terminated at the end of the term by either party by written notice to the other party no less than 180 calendar days prior to the end of the term.

Section 2. Non-exclusive Franchise. The right and franchise hereby granted shall not be exclusive and the City expressly reserves the right, at any time during the term of the right of franchise hereby granted, to grant rights or franchises for such purpose to other persons or corporations, as well as the right in its own name as a municipality, to use said streets for such purposes.

Section 3. Non-interference of Facilities/Coordination.

3.1 The locations and methods of installation and maintenance of all poles, wires, fixtures, underground conduits and appurtenances thereof (hereinafter referred to as "facilities") shall be subject all times to reasonable regulation by the City Council or their designee, and all such facilities shall be so constructed and maintained so as to interfere as little as practicable with the free and safe passage of pedestrians and vehicular traffic. All of such facilities shall be installed and at all times maintained by the District in safe order and condition and in accordance with good electrical practice, and the District, at its own cost and expense, shall promptly repair all streets in any way disturbed by the District, and shall restore the same to its condition prior to District work as near as is practical and per City of Kennewick's adopted Public Works Standard Specifications and Details.

3.2 The District shall comply with all existing and future ordinances, or rules and regulations of the City relating to the use or improvement of said streets. The District shall provide the City, upon the City's reasonable request, copies of available drawings in use by the District showing the location of its facilities within the franchise area. At locations where clarification of facility locations is required, the District, at the City's reasonable request shall provide field markings and/or work in partnership with the City using methods such as excavating and pot holing of its underground facilities within the franchise area and within the project limits for the design of City capital projects at no cost to the City (as per section 11.3). The District and the City are responsible for complying with the provisions of Washington's One-Call statutes: RCW Ch. 19.122.

3.3 In the event the City Manager or designee reasonably determines, after providing written notice to the District and a reasonable opportunity for the District to respond to the City Manager or designee's concerns, that any one or more of the District's Facilities with the Franchise Area interfere with the free and safe passage of pedestrian, bicycle and/or vehicular traffic therein or with reasonable ingress or egress to properties abutting thereto that exists when such Facilities are first installed, then the District shall promptly take such action as is reasonably necessary to eliminate such interference.

Section 4. Construction and Maintenance of Facilities in Franchise Area; Permit Required.

4.1 Whenever the District works in the Franchise Area for purposes of traffic control, installation, construction, repair, maintenance, relocation, or removal of its Facilities, it shall apply to the City for all necessary City permits to do such work, in accordance with all ordinances and regulations of the City. The District shall comply with all requirements and conditions of such permits, including but not limited to location restrictions, traffic control, restoration and repair work to restore the surface of the Franchise Area. In no case shall any such work commence within the Franchise Area without a permit, except as otherwise provided in this Franchise. After the work is completed, the District shall provide to the City upon request and at no cost, copies of the District's drawings showing the approximate location of its Facilities affected by such work. The foregoing is not, however, intended to relieve the District of its obligations arising under Section 11 of this Franchise or under applicable law with respect to determining and disclosing the location of its Facilities within the Franchise Area.

4.2 The District shall at all times post and maintain proper barricades and traffic control and comply with all applicable safety regulations during any period of construction or maintenance activities within the right-of-way as required by City or state regulations, including RCW 39.04.180, for the construction of trench safety systems. The District shall set up and maintain proper traffic control for all lane closures and shall avoid where possible doing lane closures during the peak traffic hours from 6:30am – 8:30am and 3:30pm – 6:00pm.

4.3 Conditions when permits are typically not required:

No permit or traffic plan is required to be submitted for:

- i. Spot maintenance work on neighborhood residential streets that takes less than 2 hours at the location when no ground excavation is being done.
- ii. Scheduled aerial work or tree trimming on neighborhood residential streets when no ground excavation is being done.

- iii. Same location pole change out or replacement work is being performed on neighborhood residential streets as long as sidewalks, curbs, gutters, or paved surfaces are not disturbed.

4.4 In the event of any emergency where any Facilities located in the Franchise Area are broken or damaged, or if the District's work area within the Franchise Area is in such a condition as to endanger any person or property, the District may immediately take any necessary emergency measures to repair or remove its Facilities or otherwise make its work area safe without first applying for and obtaining a permit as required by Section 4.1. This provision shall not relieve the District from later obtaining any necessary permit for the emergency work unless it is work described in section 4.3. The District shall apply for the required permit the next business day following the emergency work or, in the case of an extended state of emergency, as soon thereafter as practical. Emergency work that did not disturb the integrity of the public improvements within the public right-of-way is excluded from obtaining a permit after the fact.

4.5 In the event the District proposes to cut or disturb pavement within the Franchise Area for any purpose (except as provided in Section 4.4) the District shall apply to the City for a permit to make such disturbance in accordance with Section 4. In its application the District shall identify the specific paving proposed to be disturbed, describe the scope and extent of such disturbance and explain the necessity for such disturbance. The District will minimize the extent of such pavement disturbance to that reasonably necessary to perform its work. The District acknowledges the City's authority and discretion to approve (or not approve) disturbance of such pavement and to condition such approval and require compliance of the pavement restoration to the condition required in Section 5. The District shall not cut or disturb any pavement within the Franchise Area (except as provided in Section 4.4) without written authorization from the City Manager or designee. Except for emergencies, the District acknowledges that permits to cut asphalt pavement will not be issued by the City on newly constructed or reconstructed streets and overlays for a period of five (5) years from the date of construction. A cut may be considered based on need and appropriate pavement restoration mitigation.

4.6 In the event the District proposes to replace or install utility poles within the Franchise Area for any purpose other than a City Project as defined in Section 8 (relocation), and except as provided in Section 4.3 and 4.4, the District shall apply to the City for a permit in accordance with Section 4. The District shall identify the purpose and scope of said project. If the project results in decommissioned above-ground facilities in the Franchise Area, then the District shall remove the decommissioned facilities in the manner set forth in Section 5.

4.7 All District underground facilities shall be laid in accordance with current City regulations and project permit requirements. Unless otherwise approved by the Public Works Director, underground facilities must maintain (parallel) five (5) feet separation from City water mains and must maintain (parallel) ten (10) feet separation from City sewer mains. District shall restore the public way to its condition prior to District work as near as is practical and per the City's adopted Public Works Standard Specifications and Details. The District shall participate in joint utility trenching and conduit banks where possible for future utility use at its own cost on new or reconstructed roadways in the Franchise Area, unless written approval for not participating is granted by the Public Works Director.

4.8 The City's 20-year Capital Improvement Plans for transportation and utilities will be provided to the District for their use in planning future projects, along with the annual update of the Six-Year Transportation Improvement Plan. The District's Five Year Plan of Service will be provided to the City for their use planning future projects each year following adoption.

Section 5. Restoration of Franchise Area and Decommissioning of Facilities.

5.1 The District shall promptly restore the Franchise Area, at its sole cost and expense, after any installation, construction, relocation, maintenance, repair or removal of its Facilities within the Franchise Area or any settling, subsidence, or any other need for repairs or maintenance resulting from excavations made by District. The District agrees to repair Rights-of-Way as a result of settling, subsidence, or other needed repairs or maintenance resulting from excavations made by the District upon forty-eight (48) hours' notice excluding weekends and holidays. The District shall restore the Franchise Area to its condition prior to District work as near as is practical and per City of Kennewick's adopted Standard Specifications and Details, in each case as reasonably necessary to restore the integrity of the paving disturbed by the District's work. All survey monuments which are disturbed or displaced by such work shall be referenced and restored per WAC 332-120, as the same now exists or may hereafter be amended, and all pertinent federal, state, and City standards and specifications. The City Manager or designee shall have final approval of the condition of the Franchise Area after restoration.

5.2 If it is determined that the District has failed to restore the Franchise Area in accordance with Section 5, the City shall provide the District with written notice including a description of actions the City reasonably believes necessary to restore the Franchise Area. If the Franchise Area is not restored in accordance with the City's notice within thirty (30) days of that notice, the City, or its authorized agent, may restore the Franchise Area. The District shall be responsible for and pay all costs and expenses incurred by the City in restoring the Franchise Area in accordance with this section. The District shall pay said costs and expenses within thirty (30) days of receipt of the City's billing for such work, including City overhead (provided that in no event shall such overhead exceed 10% of the total costs, fees and expenses). The remedy granted to the City under this section shall be in addition to those otherwise provided by this Franchise.

5.3 In the event the District permanently ceases use of any above-ground Facilities within the Franchise Area, the District shall remove said Facilities at no cost to the City. Removal shall occur within ninety (90) days after the District's permanent cessation of use and all third party attachments have been removed from such Facilities, and when reasonably practicable, prior to the expiration of the required permit. Consistent with the District's obligations under state law, the District shall notify any third parties that are known by the District to have attachments located on the District's Facilities, that such third party attachments must be removed or relocated. Additional time for removal may be agreed to by the parties provided that if the parties agree upon such additional time, the City shall renew or extend the required permit. The intent of the notification permit is to provide the City a tracking system if removal of the District's equipment results in an issue such as ground settling at a later date, whereby the District would then repair per section 5.1.

5.4 In the event the District permanently discontinues use of and decommissions any of its underground Facilities within the Franchise Area, the District may leave such underground Facilities in place subject to the conditions set forth in Sections 5.4 – 5.7. The District shall notify the City when it permanently discontinues use of and decommissions underground Facilities within the Franchise Area. The District's written notification to permanently decommission underground Facilities within the Franchise Area shall include a mitigation plan for either removing or leaving in place the decommissioned underground Facilities. The mitigation plan shall address how and when the Facilities will be removed and shall include any mitigation measures the District proposes to address impacts of the decommissioned underground Facilities to the Franchise Area. The mitigation plan shall require that any underground Facilities to be left in place shall be made inert by disconnecting and sealing such underground Facilities in compliance with applicable regulation and industry standards. Unless otherwise approved by the City, removal and mitigation should be accomplished within one hundred and eighty (180) calendar days after the Facilities are permanently decommissioned.

5.5 Within thirty (30) calendar days of receiving a mitigation plan submitted by the District pursuant to Section 5.4, the City will review the mitigation plan and either approve or require changes and resubmittal. The City will not unreasonably withhold approval of the District's proposed plan, but may require changes if it determines, in its reasonable discretion that the plan fails to adequately mitigate impacts of the District's permanently decommissioned underground Facilities. If the City determines after consultation with the District, that the impacts of leaving the Facilities in place cannot be adequately mitigated to the City's reasonable satisfaction, the City may require removal of the underground Facilities. If the City approves leaving permanently decommissioned underground Facilities in place, it may condition such approval upon the District's agreement to remove directly impacted portions of the underground Facilities at a later time, such as in conjunction with a subsequent City Project or other project that includes excavation in the area or as reasonably required to ensure the health and safety of the public. Following the City's approval of a mitigation plan, the District shall promptly and in good faith implement the plan and obtain all required permits for its work in the Franchise Area.

5.6 If the parties fail to agree on a mitigation plan, the District fails to comply with an approved plan, or circumstances require City action prior to approval of a plan, the City may, but is not required to, take such steps as it deems necessary to remove and/or mitigate for the impacts of the permanently decommissioned underground Facilities. Any costs incurred by the City as a result of the District's failure to comply with its obligations under this Section with respect to permanently decommissioned Facilities shall be reimbursed by the District within thirty (30) calendar days of the City invoicing the District for such costs.

5.7 All work by the District pursuant to this Section 5 shall be performed in accordance with the permit issued by the City, together with the laws of the State of Washington and, subject to the Kennewick Municipal Code and applicable standards of the City as the same now exists or as may be hereafter amended or superseded.

5.8 The Parties expressly agree that the provisions of this section shall survive the termination, expiration, or revocation of this Franchise.

Section 6. Bonding Requirement.

6.1 The Parties agree that Pursuant to RCW 35A.47.040, the City can require the District to file a bond, however the District is a public agency and as such the City is not requiring the District to file such a bond upon acceptance of this Franchise. In lieu of requiring the bond upon acceptance the City reserves the right to require the District to file a bond with the City in the event it finds the District or its contractors, subcontractors, or agents have failed to perform the “Bonded Obligations” as noted below. The District shall, within thirty (30) days of receiving notice of the City file with the City, and at times thereafter, maintain in full force and effect for the term of this Franchise, a bond executed by the District and a corporate surety authorized to do surety business in the State of Washington, with an AM Best rating of A XII. The amount shall be as provided in Section 6.3 and shall secure performance of the District’s obligations under Sections 3, 4, 5, 7 and 8 (the “Bonded Obligations”). The bond shall be in a manner and form reasonably acceptable to the City and secure the District’s faithful performance of the Bonded Obligations and provide recovery on the bond in case of the District’s failure to perform the Bonded Obligations. The District may meet the obligations of this section with one (1) or more bonds reasonably acceptable to the City. In the event that a bond furnished pursuant to this section is canceled by the surety, after proper notice and pursuant to the terms of said bond, the District shall, prior to the expiration of said bond, procure a replacement bond which complies with the terms of this section.

6.2 In the event the District shall fail to perform any Bonded Obligations in undertaking any work or other activities within the Franchise Area authorized by this Franchise, and further fails to cure its deficiency within the time period identified in the City’s written notice of such deficiency, then the City may recover jointly and severally from the District and the surety of such bond to ensure performance of the Bonded Obligations. This section shall be a continuing obligation for the duration of this Franchise and thereafter until the District has discharged all of its Bonded Obligations under this Franchise.

6.3 The bond filed in accordance with the requirements of this Section 6 shall be in the amount of Twenty-Five Thousand Dollars and No/100 (\$25,000), but may be increased from time to time by mutual agreement of the parties if the volume of work being undertaken by the District within the Franchise Area under this Franchise at any given point in time materially increases such that an increase in the bond amount is reasonably necessary to provide adequate protection to the City for the Bonded Obligations covered by such work.

6.4 In the event the City intends to execute on or seek recovery under any bond(s) furnished by the District pursuant to this Section 6, the City shall promptly provide written notice of same to the District. If the City successfully executes on any such bond, the District shall promptly obtain a replacement bond in like amount and/or take such other action as is reasonably necessary to ensure that the bond(s) required by this Section 6 are maintained in full force and effect for the term of this Franchise.

6.5 The rights reserved to the City by this Section 6 are in addition to other rights of the City whether reserved by this Franchise or authorized by law, and not action, proceeding, or exercise of right under this Section 6 shall constitute an election or waiver of any rights or other remedies the City may have.

Section 7. Undergrounding of Overhead Facilities.

7.1 The District acknowledges that the City desires to promote a policy of undergrounding of facilities within the Franchise Area. The City acknowledges that the District provides electric and communications service on a non-preferential basis subject to customers across Benton County.

7.2 (a) The City and District agree to split costs on selected main feeder undergrounding projects within the rights of way or easements within the City when funding has been identified. The District shall share the incremental costs of underground versus overhead construction of main feeder electric lines on a 50-50 basis with the City on projects mutually approved by the District and the City, provided that the District's share of funding for such undergrounding projects shall not exceed \$250,000 in any calendar year. The incremental cost on which the cost sharing shall be based is the difference between the District's estimated total cost to construct underground facilities and the total cost to construct overhead facilities. As City road improvements and other projects involving the District's facilities typically include excavation work, a portion of the City's cost share may include providing excavation and trenching services for placement of District vaults and conduits required for underground facilities. The value assigned to excavating and trenching costs shall be mutually agreed to by the parties. Final contributions from the City to the District for underground facilities cost sharing shall be based on actual costs incurred by the District for each project. The City and District shall share equally in any actual costs exceeding original underground facilities project cost estimates.

(b) As mutually agreed and within the \$250,000 budget limit noted in 7.2(a) this cost sharing agreement may also be used to relocate and underground District Facilities for unique City projects that are not solely within a right of way, or an easement, but serve a public purpose and benefit both the City's and the District's constituents.

(c) If less than \$250,000 is spent in a calendar year by the District under the provisions of this Agreement, the unexpended amount may be carried over into the next calendar year for a maximum contribution by the District of \$500,000 in any two-year period.

Section 8. Relocation of Facilities.

8.1 Whenever the City causes a public right-of-way improvement to be undertaken within the Franchise Area, and such improvement necessitates the relocation of existing District facilities, the District shall, at its sole expense and with due diligence, relocate and adjust its facilities to conform with the public right-of-way improvements. The City shall provide the District with plans and specifications for the improvements within a reasonable time prior to commencement of the public right-of-way improvement. The district shall coordinate its relocation work with the City and shall perform same in a timely fashion so that, absent conditions beyond the control of the District, such relocation or adjustment of District Facilities will not impede or delay such improvement or changing of the Franchise Area.

8.2 As used herein, the term "public right-of-way improvement" is a City capital improvement in public right-of-way or public property identified in the City's 20-Year Capital Improvement Plans for transportation and utilities or Six-Year Transportation Improvement Plan. This may be

work performed by the City; or work performed by a third party as a requirement of the City if shown within the first three years of the plan.

8.3 The City shall be responsible for the costs of relocation or adjustment of District facilities for a public right-of-way improvement if (1) existing District facilities exist outside of public right-of-way or in a District-owned or obtained easement; or (2) the City is requiring relocation or adjustment of District facilities that were previously moved by the District on behalf of the City within the past five (5) years. When the District facilities to be relocated are in a District-owned or obtained easement that predated City right-of-way ownership, the City shall provide the District a new easement to relocate to unless otherwise agreed to by both parties. When District facilities exist in a common shared utility easement dedicated to the City and its assigns, the cost for relocation of District facilities will be shared equally between the District and the City.

Section 9. Moving Buildings in Franchise Area. When necessary, in order to permit any duly authorized person to move any building or other structure across or along any street within the City, the District shall temporarily raise or remove its facilities upon such streets upon reasonable notice in advance from the City, at such time and in such manner as may be reasonably necessary to accommodate such moving, consistent with the maintenance of proper operation of the District's transmission and distribution lines; provided, however, that the cost to the District of such temporary raising or removal, or any interruption of the District's operating of said transmission and distribution lines caused thereby, shall first be paid or satisfactorily secured to the District by the owner or mover of such building or other structure.

Section 10. City Use of Facilities. The City shall be permitted, subject to a joint-use agreement and paying appropriate fees to the District, to install and maintain City-owned non-commercial communications equipment, wires and/or fiber to the poles or within the communication conduits of the District in said City, but at the City's own risk and only in accordance with standard safety practices. If there is not sufficient space available thereon/in for said purpose, the District's structure may be so changed, altered, or rearranged at the expense of the City as to provide proper clearance or capacity for such wires. Such wires shall be subject to interference by the District only when and to the extent necessary for proper construction, reconstruction, maintenance, operation, or repair of the District's electric utility property and facilities.

Section 11. Records of Installation and Planning.

11.1 Upon the City's request, the District shall promptly provide to the City copies of available maps and plans of imminent planned improvements, relocations and conversions to its Facilities within the Franchise Area; provided however, any such maps or plans so submitted shall be for information purposes only and shall not obligate the District to undertake any specific improvements within the Franchise Area, nor shall such plan be construed as a proposal to undertake any specific improvements within the Franchise Area.

11.2 Upon the City's reasonable request, the District shall provide to the City copies of available drawings in use by the District showing the approximate locations of the District's Facilities at specific locations within the Franchise Area. Further, the District shall, upon the City's reasonable request, discuss and explore ways in which the District and the City may

cooperate and coordinate activities with respect to the development of drawing file layers compatible with the City's Geographic Information System ("GIS") which show the District's Facilities at specific locations in the Franchise Area. Notwithstanding the foregoing, the District does not warrant the accuracy or sufficiency of any such drawings, drawing file layers or other information provided by the District, and the District shall not be liable to the City or others for any errors or defects in the same.

11.3 The District shall further provide, upon the City's reasonable request in connection with the design of a City Project, copies of available drawings in use by the District showing the location of its facilities within the franchise area. At locations where clarification of facility locations on available drawings is required, the District, at the City's reasonable request shall provide field markings of its underground facilities within the franchise area for the design of City capital projects within the project limits at no cost to the City. The City will maintain all markings to the best of its ability per RCW Ch. 19.122. In addition, the District shall, upon the reasonable request of the City in connection with the design of any City capital Project, work in partnership with the City using methods such as excavating and pot holing to verify the actual location of its underground Facilities within the Franchise Area at the location of a City Project.

11.4 The parties acknowledge that the District is subject to and must comply with applicable federal and state laws and regulations that apply to attachments of wires, devices and other equipment ("Attachments") owned by third parties to the District's poles within the Franchise Area. As of the date of this Franchise, the District and third parties have attachments of wires, devices and other equipment to the District's poles within the Franchise Area use the Alden Systems as the means of providing official notice between them of actions required to be taken and reporting of actions taken by such third parties with respect to such Attachments. To the extent consistent with applicable federal and state laws and regulations and at the request of the City, the District will use commercially reasonable efforts (subject to the functional capabilities and limitations of Alden Systems in place from time to time) include the City as an interested party to any notification tickets submitted by the District in Alden Systems with respect to any of the District's poles with the Franchise Area that are permanently no longer in use by the District and which contain third party attachments. The City may monitor activity associated with such third party attachments through Alden Systems and engage directly with such third party to compel completion of such third party transfers under any applicable City authority.

11.5 Notwithstanding the foregoing, nothing in this Section 11 is intended (nor shall be construed) to relieve either party of their respective obligations arising under applicable law with respect to determining and disclosing the location of utility facilities.

Section 12. Vegetation Management.

12.1 The District shall, on an annual basis, perform vegetation review throughout the City and identify areas that need vegetation management for the reliable and safe operation of the District's Facilities. The City may accompany the District or its consultants in the review of vegetation in the Franchise Area, at its discretion. The District shall, on an annual basis, identify those areas targeted for accelerated or "hot spot" tree trimming and vegetation

management and provide the City a written list and maps of locations within the Franchise Area at which the District anticipates performing vegetation management activities for that year; provided that such list shall not limit the District's right under this Franchise to cut, trim or otherwise remove vegetation at any time within the Franchise Area which, due to proximity to the District's Facilities, pose an imminent threat to public safety or the reliable operation of the District's Facilities. On an annual basis, the City and the District shall meet to review the District's and the City's plans for vegetation management within the Franchise Area, and to the extent practicable, shall attempt to coordinate vegetation management work planned for the same or overlapping area with the Franchise Area. The District agrees to work with the City on the District's trimming plans to review for overlap with the City's trimming plans and avoid unnecessary duplication and expenditure of funds in advance of the District's planned trimming. The District shall perform general trimming and vegetation management in the Franchise Area at least every four (4) years.

12.2 The District shall, in coordination with the City, identify vegetation species appropriate for location in proximity to the District's Facilities and shall cooperatively act with the City to promote use of such identified species within and adjacent to the Franchise Area.

12.3 The District shall, except as provided in Section 4.3 and 4.4, apply for and obtain a franchise utility right-of-way permit, with traffic control plan, for all vegetation management within the City. The District shall not commence non-emergency vegetation management work without notice to abutting private property owners or occupants at least two (2) business days in advance of the work to be performed, including a general time frame and description of work, and a contact name and telephone number at the District. In performing vegetation management work, the District shall comply with ANSI 300 pruning standards. The District shall notify the City at least two (2) business days prior to any vegetation management work being conducted within the Franchise Area; except that emergency work can be done the same day, provided the City is contacted either by phone or email as soon as feasible. A knowledgeable District representative will stay in close communication with the City while vegetation management work is performed within the Franchise Area. The District shall conduct periodic performance reviews at the request of the City.

12.4 At the request of an abutting private property owner, the District shall employ or consult with a certified arborist to assess the type of pruning proposed to be done and/or shall provide the abutting owner with alternatives to the type of pruning proposed to be done. The District will reasonably consider alternatives proposed by the abutting property owner and any certified arborist hired by the property owner.

12.5 Nothing in this Franchise is intended to absolve the District from any liability resulting from damage caused by trees that are severely pruned or topped by the District and subsequently fall as a result of such pruning or topping.

12.6 In the event trees need to be trimmed within the Franchise Area, the District shall notify the City at least 2 days ahead of time, except as provided in Section 4.3 and 4.4. The City shall have final determination of whether a tree needs to be removed in the right-of-way or Franchise Area and replacement trees shall be negotiated between the City and the District or their contractor on a case by case basis.

12.7 All debris associated with line clearance tree trimming and/or removal work within the Franchise Area will be chipped and removed by the District or its contractor from the site at no cost to the City. “Drop and Scatter” practices will require prior approval from the City. An exception is for the District to leave firewood on site at the property owner’s request.

12.8 When trees are heavily trimmed or removed from or adjacent to the Franchise Area, the District shall perform the work in such a way as to avoid damage to other trees within that area. If additional trees are accidentally damaged during such work, the District or its contractor, will use its best efforts to appropriately prune any such damaged trees. The City is to be contacted immediately in the event of any unplanned damage to City owned trees.

12.9 The District shall commit to responding to all vegetation management inquiries in the Franchise Area:

- (a) Within two (2) business days of being contacted by a customer in response to planned vegetation management work on or near their residence; and
- (b) Within two (2) weeks of receipt of all general vegetation management inquiries.

12.10 The parties shall endeavor to resolve disputes arising under this section in good faith.

Section 13. Indemnification.

13.1 Franchisee releases, covenants not to bring suit, and agrees to indemnify, defend, and hold harmless the City, its officers, employees, agents, volunteers and representatives from any and all claims, costs, judgments, awards, or liability to any person, for injury or death of any person, or damage to property caused by or arising out of any negligent acts or omissions of Franchisee, its agents, servants, officers, or employees in the performance of this Franchise and any rights granted within this Franchise. Further, Franchisee shall indemnify, defend and hold harmless the City, its officers, employees, agents, volunteers and representatives from any and all claims, costs, judgments, awards or liability to any person arising from radio frequency emissions or radiation emitted from Franchisee’s Facilities located in the Rights-of-Way, regardless of whether Franchisee’s equipment complies with applicable federal statutes and/or FCC regulations related thereto. These indemnification obligations shall extend to claims that are not reduced to a suit and any claims that may be compromised, with Franchisee’s prior written consent, prior to the culmination of any litigation or the institution of any litigation.

13.2 Inspection or acceptance by the City of any work performed by Franchisee at the time of completion of construction shall not be grounds for avoidance by Franchisee of any of its obligations under this Section 13.

13.3 The City shall promptly notify Franchisee of any claim or suit and request in writing that Franchisee indemnify the City. Franchisee may choose counsel to defend the City subject to this Section 13.3. City’s failure to so notify and request indemnification shall not relieve Franchisee of any liability that Franchisee might have, except to the extent that such failure prejudices Franchisee’s ability to defend such claim or suit. In the event that Franchisee refuses the tender of defense in any suit or any claim, as required pursuant to the indemnification provisions within this Franchise, and said refusal is subsequently determined by a court having jurisdiction (or

such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Franchisee, Franchisee shall pay all of the City's reasonable costs for defense of the action, including all expert witness fees, costs, and attorney's fees, and including costs and fees incurred in recovering under this indemnification provision. If separate representation to fully protect the interests of both parties is necessary, such as a conflict of interest between the City and the counsel selected by Franchisee to represent the City, then upon the prior written approval and consent of Franchisee, which shall not be unreasonably withheld, the City shall have the right to employ separate counsel in any action or proceeding and to participate in the investigation and defense thereof, and Franchisee shall pay the reasonable fees and expenses of such separate counsel, except that Franchisee shall not be required to pay the fees and expenses of separate counsel on behalf of the City for the City to bring or pursue any counterclaims or interpleader action, equitable relief, restraining order or injunction. The City's fees and expenses shall include all out-of-pocket expenses, such as consultants and expert witness fees, and shall also include the reasonable value of any services rendered by the counsel retained by the City but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Franchisee. Each party agrees to cooperate and to cause its employees and agents to cooperate with the other party in the defense of any such claim and the relevant records of each party shall be available to the other party with respect to any such defense.

13.4 It is specifically and expressly understood that the indemnification provided constitutes Franchisee's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification, relating solely to indemnity claims made by the City directly against the Franchisee for claims made against the City by Franchisee's employees. This waiver has been mutually negotiated by the parties.

13.5 In no event shall the City be liable for any indirect, incidental, special, consequential, exemplary, or punitive damages, including by way of example and not limitation lost profits, lost revenue, loss of goodwill, or loss of business opportunity in connection with the District's performance or failure to perform under this Franchise.

13.6 The provisions of this Section 13 shall survive the expiration, revocation, or termination of this Franchise.

Section 14. Insurance.

14.1 Franchisee shall procure and maintain for so long as Franchisee has Facilities in the Public Ways, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the acts or omissions of Franchisee. Franchisee shall procure insurance from insurers with a current A.M. Best rating of not less than A.

In lieu of purchasing a stand-alone insurance policy, if Franchisee is a member of a risk pool in good standing in the State of Washington, Franchisee may satisfy the requirements of Section 14 by providing an Evidence of Coverage Letter from its risk pool demonstrating Franchisee is a member and is afforded the coverage levels required by this Franchise for the risks noted in 14.1(a)-(e).

Franchisee shall provide a copy of a certificate of insurance and additional insured endorsement, or the Evidence of Coverage Letter noted above, to the City for its inspection at the time of acceptance of this Franchise, and such insurance certificate or letter shall evidence a policy of insurance that includes:

- (a) Automobile Liability insurance with limits of no less than \$5,000,000 combined single limit per occurrence for bodily injury and property damage;
- (b) Commercial General Liability insurance, written on an occurrence basis with limits of no less than \$5,000,000 per occurrence for bodily injury and property damage and \$5,000,000 general aggregate including personal and advertising injury, blanket contractual; premises; operations; independent contractors; products and completed operations; and broad form property damage; explosion, collapse and underground (XCU);
- (c) Pollution liability shall be in effect throughout the entire Franchise term, with a limit of one million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000) in the aggregate;
- (d) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and Employer's Liability with a limit of \$1,000,000 each accident/disease/policy limit. Evidence of qualified self-insurance is acceptable; and
- (e) Excess Umbrella liability policy with limits of no less than \$5,000,000 per occurrence and in the aggregate. Franchisee may use any combination of primary and excess to meet required total limits.

14.2 Payment of deductible or self-insured retention shall be the sole responsibility of Franchisee. Franchisee may utilize primary and umbrella liability insurance policies to satisfy the insurance policy limits required in this Section 14. Franchisee's umbrella liability insurance policy shall provide "follow form" coverage over its primary liability insurance policies.

14.3 The required insurance policies, or evidence of risk pool coverage with the exception of Workers' Compensation and Employer's Liability obtained by Franchisee shall include the City, its officers, officials, employees, agents, and volunteers ("Additional Insureds"), as an additional insured with regard to activities performed by or on behalf of Franchisee, with coverage at least as broad as Additional Insured Managers Lessors of Premises ISO form CG 20 11. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the limits of the insurer's liability. Franchisee shall provide to the City upon acceptance a certificate of insurance and blanket additional insured endorsement, or evidence of coverage letter. Receipt by the City of any certificate showing less coverage than required is not a waiver of Franchisee's obligations to fulfill the requirements. Franchisee's required general and auto liability insurance shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of

Franchisee's required insurance and shall not contribute with it.

14.4 Upon receipt of notice from its insurer(s) Franchisee shall provide the City with thirty (30) days prior written notice of any cancellation of any insurance policy, required pursuant to this Section 14. Franchisee shall, prior to the effective date of such cancellation, obtain replacement insurance policies meeting the requirements of this Section 14. Failure to provide the insurance cancellation notice and to furnish to the City replacement insurance policies meeting the requirements of this Section 14 shall be considered a material breach of this Franchise and subject to the City's election of remedies described in Section 15 below. Notwithstanding the cure period described in Section 15, the City may pursue its remedies immediately upon a failure to furnish replacement insurance.

14.5 Franchisee's maintenance of insurance as required by this Section 14 shall not be construed to limit the liability of Franchisee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or equity. Further, Franchisee's maintenance of insurance policies required by this Franchise shall not be construed to excuse unfaithful performance by Franchisee. If Franchisee maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess Umbrella liability maintained by the Franchisee, irrespective of whether such limits maintained by the Franchisee are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Franchisee.

14.6 The City may review all insurance limits at the end of each Term of the Franchise Agreement and may make reasonable adjustments in the limits upon thirty (30) days' prior written notice to Franchisee. Franchisee shall then issue a certificate of insurance to the City showing compliance with these adjustments. Upon request by the City, Franchisee shall furnish certified copies of all required insurance policies, including endorsements, required in this Franchise and evidence of all contractors' coverage.

As of the Effective Date of this Franchise, Franchisee is not self-insured. Should Franchisee wish to become self-insured at the levels outlined in this Franchise at a later date. Franchisee or its affiliated parent entity shall comply with the following: (i) provide the City, upon request, a copy of Franchisee's, or its parent company's, most recent audited financial statements, if such financial statements are not otherwise publicly available; (ii) Franchisee or its parent company is responsible for all payments within the self-insured retention; and (iii) Franchisee assumes all defense and indemnity obligations as outlined in the indemnification section of this Franchise.

Section 15. Failure to Perform/Termination. If the District shall fail to perform or comply with any of the obligations and requirements imposed by this Ordinance, after the receipt of written notice from the City specifying the respect in which the District is deemed to be in default hereunder and demanding that such default be remedied within a reasonable time to be fixed in such notice, the right and franchise granted herein may be terminated and annulled by the City Council, after reasonable opportunity for the District to be heard and appropriate determination is made with respect to such alleged default.

Section 16. Reimbursement of Administrative Costs.

16.1 As specifically provided by RCW 35.21.860, the City may not impose a franchise fee or any other fee or charge of whatever nature or description upon the District.

16.2 As provided in RCW 35.21.860 the District shall reimburse and pay for the City's administrative expenses and costs incurred by the City that are directly related to: (a) receiving and approving a permit, license or this Franchise, (b) inspecting plans and construction, or (c) preparing a detailed statement as may be required by Chapter 43.21C RCW. The District acknowledges and agrees that it shall pay such actual administrative expenses incurred by the City, relating to the receipt, review and approval of this Franchise under Subsection 16.2(a).

16.3 As such expenses are incurred by the City, the City shall invoice the District for all administrative expenses and costs to be reimbursed by the District hereunder including an itemized statement showing such expenses and costs. The District shall promptly remit payment to the City within thirty (30) days of receipt of such invoice. Notwithstanding any other provision of this Franchise, no acceptance by the District of this Franchise shall be effective if the District fails to pay the City's initial invoice for administrative expenses and costs properly reimbursable under Section 16.2(a) that are incurred by the City in receiving and approving this Franchise.

16.4 If the District disputes any expense or cost included on the City's invoice, the District shall promptly notify the City thereof and shall otherwise promptly remit payment for any and all undisputed expenses and costs included on the City's invoice. As to any cost expense or cost disputed by the District, the District shall promptly provide written identification of such disputed amounts together with its written justification for such dispute to the City for the City's consideration. The District and the City shall work together in good faith to resolve any disputed amounts, including provision by either party or both parties of such further information and documentation supporting or refuting such disputed amounts as may reasonably and practically be provided. Until any such dispute is resolved by the Parties the City may, at its sole discretion, suspend work being performed by the City or the District and/or by withholding City issued permits or City approvals related to such disputed amounts. Except as set forth in this Section 16, such dispute will not otherwise affect any other obligation of the parties under this Franchise.

Section 17. Repeal of Former Franchise Agreement. This Franchise shall be governed, construed and enforced in accordance with the laws of the State of Washington (as amended), any applicable rules, regulations and orders of the FCC, as amended, and any other applicable local, State and federal laws, rules, and regulations, as amended. The Former Franchise Agreement extended by Ordinances 5810 and 5837 is repealed hereby and the Parties shall proceed under the terms and conditions as of the effective date of this Franchise Agreement.

Section 18. Applicable Taxes, Charges and Fees. That as consideration for granting said franchise, the District will be liable utility tax, as provided from time to time in the City Utility Tax Ordinance or other City ordinance, and City permit fees for work in the right-of-way. The District shall pay a franchise processing fee to the City of One Thousand Two-Hundred Fifty Dollars (\$1,250.00).

Section 19. Assignment of Franchise. Said franchise may not be assigned without written consent of the Grantor, but if such consent is given and the franchise is assigned, it shall be binding upon the successors, assigns, and independent contractors of the District.

Section 20. Amendments to Franchise. This franchise may be amended only by written instrument, signed by both parties, which specifically states that it is an amendment of this franchise and is approved and executed in accordance with the laws of the State of Washington.

Section 21. Severability and Survival.

21.1 If any term, provision, condition or portion of this Franchise shall be held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Franchise which shall continue in full force and effect. The headings of the sections and paragraphs of this Franchise are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

21.2 All provisions, conditions and requirements of this Franchise that may be reasonably construed to survive the termination or expiration of this Franchise shall survive the termination or expiration of the Franchise. The parties' respective rights and interests under this Franchise shall insure to the benefit of their successors and assigns.

Section 22. No Third Party Beneficiary. Nothing in this Franchise shall be construed to create any rights in or duties to any third party, nor any liability to or standard of care with reference to any third party. This Franchise shall not confer any right or remedy upon any person other than the parties. No action may be commenced or prosecuted against any party by any third party claiming as a third party beneficiary of this Franchise. This Franchise shall not release or discharge any obligation or liability of any third party to either party.

Section 23. Effective Date. This ordinance shall be effective five days after the passage, approval and publication as required by law. The District shall provide written acceptance prior to passage of this ordinance.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 16th day of June, 2020, and signed in authentication of its passage this 16th day of June, 2020.

Attest:

DON BRITAIN, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5872 filed and recorded in the office of the City Clerk of the City of Kennewick, Washington this 17th day of June, 2020.

Approved as to Form:

LISA BEATON, City Attorney
DATE OF PUBLICATION _____

TERRI L. WRIGHT, City Clerk

STATEMENT OF ACCEPTANCE

Public Utility District No. 1 of Benton County, for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached hereto and incorporated herein by this reference.

By: _____
Name: _____
Title: _____

Date: _____

STATE OF WASHINGTON)
) ss.
County of Benton)

On this ____ day of _____, 2020, before me the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared, _____ of PUBLIC UTILITY DISTRICT NO. 1 OF BENTON COUNTY, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

Notary Public in and for the State of Washington,
residing at _____.
My Commission Expires: _____

Council Agenda Coversheet



Agenda Item Number	6.a.	Council Date	06/16/2020
Agenda Item Type	Resolution		
Subject	Six-Year Transportation Improvement Plan		
Ordinance/Reso #	20-07	Contract #	
Project #		Permit #	
Department	Public Works		

Consent Agenda	<input type="checkbox"/>
Ordinance/Reso	<input checked="" type="checkbox"/>
Public Mtg / Hrg	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

Staff recommends that the City Council hold a public hearing and adopt the annual update of the Six-Year Transportation Improvement Plan for 2021 - 2026

Motion for Consideration

I move to adopt Resolution 20-07.

Summary

RCW 35.77.010 requires each city to adopt an annual revised Six-Year Transportation Improvement Plan (STIP) before July 1st of each year, by first holding a public hearing to allow citizen input for the updated plan. As the title indicates, the plan proposes a list of transportation related projects to be completed in the following six-year period.

In order to receive consideration for state or federal highway grants, projects must be listed in the Six-Year Transportation Improvement Plan.

For this update, projects and cost estimates have been reviewed and updated. Projects removed from last year's TIP include: Cascade Street Extension from 45th Avenue to Highland Drive and KID ROW Trail from S Edison Street to S Union Street. New projects added in the updated TIP include (highlighted in green numbers): Vancouver Street Pedestrian Pathway from 37th Avenue to 45th Avenue (Safe Route to Horse Heaven Middle School), Rectangular Rapid Flash Beacon Citywide implementation based on the Local Road Safety Plan of 2020 and W 6th Avenue Sidewalk from Vancouver to Tacoma.

Alternatives

None recommended

Fiscal Impact

None

Through	Sorin Juster Jun 03, 09:06:05 GMT-0700 2020
Dept Head Approval	Cary Roe Jun 03, 09:40:54 GMT-0700 2020
City Mgr Approval	Marie Mosley Jun 11, 20:29:33 GMT-0700 2020

Attachments:

Presentation Resolution TIP 2021 - 2026 2021 - 2026 TIP Map
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Recording Required?

Six-Year Transportation Improvement Plan Public Hearing

2021-2026

Council Meeting
June 16, 2020



State Requirement

RCW 35.77.010 requires each city to adopt an annual revised six-year transportation improvement plan (TIP) before July 1st

The TIP must address motorized transportation needs, as well as non-motorized needs (pedestrians, bicyclists, transit)

Our TIP is based on our 20-year Transportation System Plan adopted June 5, 2018



Projects

Projects in the TIP include:

- Intersections
- Road reconstruction and widening
- New road extensions
- New sidewalks, bike lanes, pedestrian crosswalks/signals
- Annual pavement preservation, sidewalk repairs, and traffic signal upgrades/retiming
- Safety Projects Such as RRFB



List of Projects

CITY OF KENNEWICK			
SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN (
Project ID	Map ID**	ROADWAY CAPITAL PROJECTS	
		Location	Description
	1	10th Avenue Reconstruction Clearwater-Step toe	Reconstruct to 3-lane road with curb, gutter, sidewalk, storm drainage and illumination. Widen Clearwater for left turn storage. Roundabout or Traffic Signal @ Clearwater & 10th Avenue.
	2	10th Avenue/Morain Street Intersection	Construct traffic signal
	3	27th Avenue/Southridge Intersection	Construct northbound right turn slip lane at roundabout
	4	45th Avenue Widening Ely-Olympia	Reconstruct 2/3 lane road with curb, gutter, sidewalks, storm drainage, illumination, replace AC water lines.
	5	Canal Drive/Edison Street Intersection	Construct second eastbound left turn lane (widen both east and west legs). Reconstruct accesses, sidewalk, frontage improvements, signal modification.
	6	Traffic Signal @ Arrowhead and Steptoe	Traffic Signal Construction
	7	Center Parkway/Deschutes Avenue Roundabout	Construct small diameter roundabout
	8	Clearwater Avenue/Kellogg Street Intersection	Construct second southbound left turn lane. Signal modifications.
	9	Colorado Street Construction Ridgeline-Bob Olson Parkway	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination
	10	Columbia Center Boulevard Widening Deschutes to Quinault	Construct new 3rd northbound and southbound thru lanes, curb, gutter, sidewalk, storm drainage, illumination, signal modifications. At Quinault: construct 2nd eastbound
	11	Deschutes/Columbia Center Blvd Intersection	Construct westbound right turn lane onto CCB. In addition, proposed work will be in preparation for extending a third lane for north and south-bound traffic on Columbia Center Blvd.
	12	Kellogg Street/Metaline Avenue Intersection	Construct traffic signal

CITY OF KENNEWICK

SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN (

	13	Montana Street Extension Bob Olson Parkway-Ridgeline	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination
	14	Ridgeline Drive Extension Phase 3 Center Parkway-Sherman	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination
	15	Ridgeline Drive Reconstruction Sherman-Southridge	Construct 3-lane road with curb, gutter, sidewalks, illumination, intersection control.
	16	Sherman Street Reconstruction Ridgeline-Bob Olson	Construct 3-lane road with curb, gutter, sidewalks, illumination, intersection control.
	17	Steptoe Street/Gage Boulevard Intersection	Construct double left turn lanes and single right turn lanes at all approaches (where not existing). Eliminate split phase timing.

Project ID	Map ID**	ROADWAY CAPITAL PROJECTS	
		Location	Description
	18	Washington Street - Complete Streets 1st Avenue -Columbia Dr	Connect wine village area with downtown, including sidewalks, benches, landscaping, railroad crossings, street lighting, and road widening/diet options
	19	Washington Street/Columbia Drive Intersection	Construct eastbound right turn lane
	20	US395/10th Avenue Intersection	Construct southbound dual left turn lanes
	21	US395/Clearwater Avenue Intersection	Construct dual eastbound left turn lanes, dual northbound left turn lanes, eastbound and westbound right turn lanes.
	22	US395/Hildebrand Intersection	Construct northbound and southbound dual left turn lanes, channelize eastbound and westbound dual left turn lanes, construct eastbound and westbound right turn lanes
	23	US395/Ridgeline Drive Interchange	Construct grade separated intersection at US395 and Ridgeline Drive, and associated vicinity improvements
	24	Zintel Way/Ridgeline Drive/Bofer Canyon	Construct remaining Zintel Way to 3-lane urban street and realign Bofer Canyon per US395/Ridgeline interchange project. Right-of-way by developer donation.

CITY OF KENNEWICK

SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN (

	25	Pavement Preservation (Capital) Citywide	Pavement infrastructure preservation capital projects, for arterials, collectors and local residential streets
	26	Traffic Signal System Upgrades/Retiming Citywide	New signal system equipment, software, communications, retiming and modifications
	27	Southridge & Ridgeline Intersection Roundabout	Expand Roundabout to a two-lanes roundabout
	28	Kennewick Avenue Union to Morain	Widening to three lanes
	29	Metaline & Edison Traffic Signal	Construct traffic signal
	30	Grandridge/Columbia Center Blvd Intersection	Intersection improvements
	31	Quinault/Columbia Center Blvd Intersection	Intersection improvements

CITY OF KENNEWICK			
SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN (
TSP ID	Map ID	NON-MOTORIZED CAPITAL PROJECTS	
		Location	Description
B-4	32	Canal Drive Sidewalks US395-Hartford	Construct new sidewalk - includes minor widening and curb construction
B-5	33	Cascade Elementary School Sidewalk Highland Drive Walkway	Construct approximately 3,700 linear feet of shoulder, RFB and pedestrian facilities, on the south side of the street from Lyle Street to Cascade Street. Project includes a crossing of Highland Drive with a pedestrian activated Rectangular Rapid Flash Beacon
B-1	34	East Columbia Park Bicycle Improvements - Phase 2 SR240 entrance to 1900' west South Side	Construct pavement widening for dedicated bicycle lanes, including permanent pavement markings and signage from rounabout to the golf course club house
B-2	35	Hawthorne Elementary School Crossing Improvements John Day-400' north	Construct a new crossing at the intersection of Neel & John Day, construct a median refuge at the existing crossing at mid-block, extend the school zone on Neel Street to encompass both crosswalks, install RRFB at both crossings.
B-6	36	Washington Elementary School Crossing Improvements @21st	Install rectangular rapid flash beacon and associated signage and channelization.
	37	Sidewalk Renewals/Replacements/ADA Citywide	Repair/replace/construct sidewalk in areas of tripping hazards, damaged sidewalk, missing sidewalk, substandard or missing ADA ramps
	38	Vancouver St. Pedestrian Pathway - 37th Ave. to 45th Ave.	Approx. 2,300 LF of paved pathway constructed on the west side of Vancouver to serve as a Safe Route to School.
	39	KID ROW Kellogg & 27th to Highland Feeder	Approx. 11,200 LF of 10 foot wide trail on KID ROW. Old channel is slated to be enclosed .
	40	KID ROW 4th to Edison	Approx. 3,700 LF of 10 foot wide trail on KID ROW. Old channel has been piped.
	41	Sidewalk from Yolo to Bob Olson	Approx. 800 LF of sidewalk.
	42	Steptoe Blvd. to Columbia Center Blvd. Pathway	Construct pathway along abandoned rail line.
	43	Rectangular Rapid Flash Beacons Citywide	Installation of new crosswalk beacons at various locations as identified in the Local Road Safety Plan.
	44	W. 6th Ave. Sidewalk - Vancouver to Tacoma	Construct approximately 630 LF of sidewalk on the south side of 6th Ave. adjacent to park. Will also include accomodations for storm.

*Added Projects for 2021-2026 are highlighted in yellow



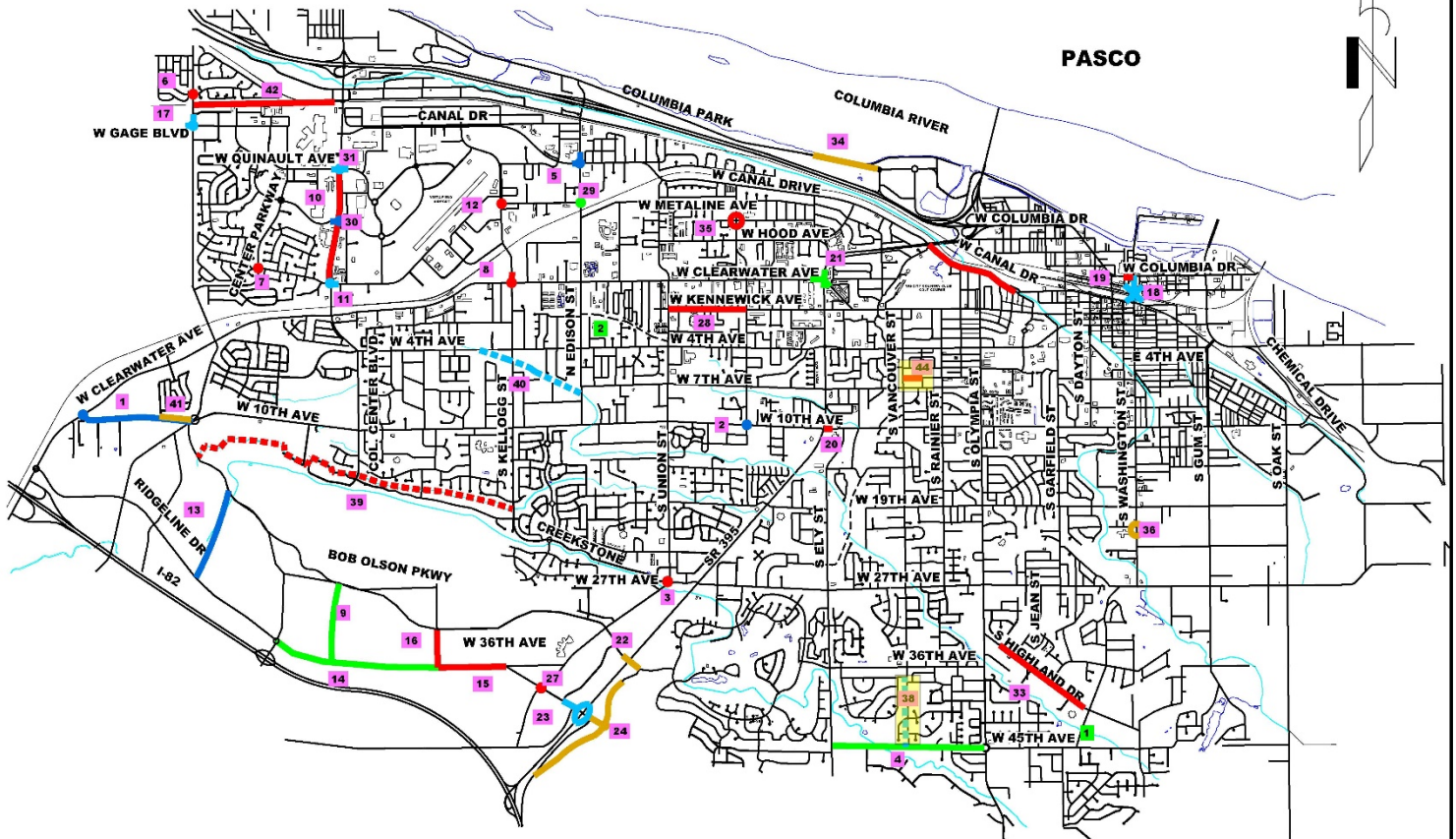
Removed Projects

- Cascade Street Extension – 45th Avenue to Highland Drive
- KID ROW Trail – W Union Street to W Edison Street



CITY OF KENNEWICK TRANSPORTATION IMPROVEMENT PLAN 2021 - 2026

CITY OF KENNEWICK SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN (TIP) - 2021 TO 2026		
ROADWAY CAPITAL PROJECTS		
Map ID#	Location	Description
1	10th Avenue Reconstruction Clearwater-Steptoe	Reconstruct to 3-lane road with curb, gutter, sidewalk, storm drainage and illumination. Widen Clearwater for left turn storage. Roundabout or Traffic Signal @ Clearwater & 10th Avenue.
2	10th Avenue/Moran Street Intersection	Construct traffic signal
3	27th Avenue/Southridge Intersection	Construct northbound right turn slip lane at roundabout
4	45th Avenue Widening By-Cynthia	Reconstruct 2/3 lane road with curb, gutter, sidewalks, storm drainage, illumination, replace AC water lines.
5	Canal Drive/Edison Street Intersection	Construct second eastbound left turn lane (widen both east and west legs). Reconstruct accesses, sidewalk, frontage improvements, signal modification.
6	Traffic Signal @ Arrowhead and Steptoe	Traffic Signal Construction
7	Center Parkway/Deschutes Avenue	Construct small diameter roundabout
8	Clearwater Avenue/Kellogg Street Intersection	Construct second southbound left turn lane. Signal modifications.
9	Colorado Street Construction Ridgeline-Boh Olson Parkway	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination
10	Columbia Center Boulevard Widening Deschutes to Quinalt	Construct new 3rd northbound and southbound thru lanes, curb, gutter, sidewalk, storm drainage, illumination, signal modifications. At Quinalt: construct 2nd eastbound
11	Deschutes/Columbia Center Blvd Intersection	Construct westbound right turn lane onto CCB. In addition, proposed work will be in preparation for extending a third lane for north and south-bound traffic on Columbia Center Blvd.
12	Kellogg Street/Metaline Avenue Intersection	Construct traffic signal
13	Morana Street Extension Bob Olson Parkway-Ridgeline	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination
14	Ridgeline Drive Extension - Phase 3 Center Parkway-Sherman	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination
15	Ridgeline Drive Reconstruction Sherman-Southridge	Construct 3-lane road with curb, gutter, sidewalks, illumination, intersection control.
16	Sherman Street Reconstruction Ridgeline-Boh Olson	Construct 3-lane road with curb, gutter, sidewalks, illumination, intersection control.
17	Steptoe Street/Gage Boulevard Intersection	Construct double left turn lanes and single right turn lanes at all approaches (where not existing). Eliminate split phase timing.
18	Washington Street - Complete Streets 1st Avenue - Columbia Dr	Connect wine village area with downtown, including sidewalks, benches, landscaping, raised crossings, street lighting, and road widening/grade options
19	Washington Street/Columbia Drive Intersection	Construct eastbound right turn lane
20	US395/10th Avenue Intersection	Construct southbound dual left turn lanes
21	US395/Clearwater Avenue Intersection	Construct dual eastbound left turn lanes, dual northbound left turn lanes, eastbound and westbound right turn lanes.
22	US395/Hildebrand Intersection	Construct northbound and southbound dual left turn lanes, channelize eastbound and westbound dual left turn lanes, construct eastbound and westbound right turn lanes
23	US395/Ridgeline Drive Interchange	Construct grade separated intersection at US395 and Ridgeline Drive, and associated visibility improvements
24	Zinief Way/Ridgeline Drive/Boyer Canyon	Construct remaining Zinief Way to 3-lane urban street and align Boh Boyer Canyon to US395/Ridgeline interchange project. Right-of-way by developer donation.
25	Pavement Preservation (Capital)	Pavement infrastructure preservation capital projects, for arterials, collectors and local residential streets.
26	Traffic Signal System Upgrade/Rating Citywide	New signal system equipment, software, communications, timing and modifications
27	Soufbridge & Ridgeline Intersection Roundabout	Expand Roundabout to a two-lanes roundabout
28	Kennewick Avenue Union to Moran	Widening to three lanes
29	Mataline & Edison Traffic Signal	Construct Traffic Signal
30	Grandridge/Columbia Center Blvd Intersection	Intersection Improvements
31	Quinalt/Columbia Center Blvd Intersection	Intersection Improvements
NON-MOTORIZED CAPITAL PROJECTS		
Map ID#	Location	Description
32	Canal Drive Sidewalks US395-Hartford	Construct new sidewalk - includes minor widening and curb construction
33	Cascade Elementary School Sidewalk Highland Drive Walkway	Construct approximately 3,700 linear feet of abutment, RFB and pedestrian facilities, on the south side of the street from Lyle Street to Cascade Street. Project includes a crossing of Highland Drive with a pedestrian activated Rectangular Rapid Flash Beacon (RRFB).
34	East Columbia Park Bicycle Improvements - Phase 2 SR240 entrance to 1930' west South Side	Construct pavement widening for dedicated bicycle lanes, including permanent pavement markings and signage from roundabout to the golf course club house
35	Heathstone Elementary School Crossing Improvements John Day-400' north	Construct a new crossing at the intersection of Neel & John Day, construct a median refuge at the existing crossing at mid-block, extend the school zone on Neel Street to encompass both crosswalks, install RRFB at both crossings.
36	Washington Elementary School Crossing Improvements @21st	Install rectangular rapid flash beacon and associated signage and channelization.
37	Sidewalk Renewals/Replacements/ADA Citywide	Repair/replace/construct sidewalk. In areas of hiping hazards, damaged sidewalk, missing sidewalk, substandard or missing ADA ramps
38	Vancouver St. Pedestrian Pathway - 37th Ave. to 40th Ave.	Approx. 2,300 LF of pathway constructed on the west side of Vancouver to serve as a Safe Route to School
39	KID ROW Kellogg & 27th to Highland Feeder	Approx. 11,200 LF of 10 foot wide trail on KID ROW. Old channel is slated to be enclosed.
40	KID ROW 4th to Edison	Approx. 3,700 LF of 10 foot wide trail on KID ROW. Old channel has been closed.
41	Sidewalk from Yolo to Bob Olson	Approx. 800 LF of sidewalk.
42	Steptoe Blvd. to Columbia Center Blvd. Pathway	Construct pathway along abandoned rail line.
43	Rectangular Rapid Flash Beacons Citywide	Installation of new crosswalk beacons at various locations as identified in the local Road Safety Plan.
44	W. 6th Ave. Sidewalk - Vancouver to Tacoma	Construct approximately 630 LF of sidewalk on the south side of 6th Ave. adjacent to park. Will also include accommodations for storm.



CITY OF KENNEWICK REMOVED PROJECTS		
SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN (TIP) - 2020 TO 2025 ROADWAY CAPITAL PROJECTS		
Map ID#	Location	Description
1	Colorado Street Extension 40th Avenue-Sherman Ave	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage, canal crossing and illumination.
NON-MOTORIZED CAPITAL PROJECTS		
Map ID#	Location	Description
2	MURROW Edison to Union Turn	Approx. 3,000 LF of 10 foot wide trail on KID ROW. Old channel has been closed.



Next Major Milestones

- Submit to BFCOG approved STIP – July 1, 2020
- Area-wide public informational hearing – August 27, 2020
- BFCOG board approval and forwarding to WSDOT – October 16, 2020



Questions?



CITY OF KENNEWICK
RESOLUTION NO. 20-07

A RESOLUTION ADOPTING THE SIX-YEAR TRANSPORTATION
IMPROVEMENT PROGRAM AS REQUIRED BY RCW 35.77.010

IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK,
WASHINGTON, AS FOLLOWS:

Section 1. The City Council, subsequent to a public hearing on June 16, 2020, approved the Six-Year Transportation Improvement Program of the City of Kennewick for the ensuing year. Said Six-Year Transportation Improvement Program is attached hereto as Exhibit "A", incorporated herein by this reference, and is hereby adopted by the City Council for the City of Kennewick.

Section 2. That annually hereafter the program shall be reviewed to determine current needs and to revise and extend the program for an additional one year subject to public hearings thereon.

Section 3. That a copy of the adopting resolution shall be filed with the Department of Transportation by July 31st of each year.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this
16th day of June, 2020, and signed in authentication of its passage this 16th day of June, 2020.

Attest:

DON BRITAIN, Mayor

TERRI L. WRIGHT, City Clerk

RESOLUTION NO. 20-07 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington, this 17th day of
June 2020.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

CITY OF KENNEWICK

SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN (TIP) - 2021 TO 2026

Project ID	Map ID**	ROADWAY CAPITAL PROJECTS		Year 2021 Costs in \$ Thousands							
		Location	Description	Cost Type	2021	2022	2023	2024	2025	2026	Total
1		10th Avenue Reconstruction Clearwater-Steptoe	Reconstruct to 3-lane road with curb, gutter, sidewalk, storm drainage and illumination. Widen Clearwater for left turn storage. Roundabout or Traffic Signal @ Clearwater & 10th Avenue.	PE				336			4,032
				RW							
				CN					3,696		
2		10th Avenue/Morain Street Intersection	Construct traffic signal	PE				53			610
				RW							
				CN					557		
3		27th Avenue/Southridge Intersection	Construct northbound right turn slip lane at roundabout	PE					42		525
				RW					63		
				CN					420		
4		45th Avenue Widening Ely-Olympia	Reconstruct 2/3 lane road with curb, gutter, sidewalks, storm drainage, illumination, replace AC water lines.	PE					189		2,342
				RW					74		
				CN						2,079	
5		Canal Drive/Edison Street Intersection	Construct second eastbound left turn lane (widen both east and west legs). Reconstruct accesses, sidewalk, frontage improvements, signal modification.	PE				145			1,497
				RW				158			
				CN						1,194	
6		Traffic Signal @ Arrowhead and Steptoe	Traffic Signal Construction	PE					42		536
				RW					21		
				CN						473	
7		Center Parkway/Deschutes Avenue Roundabout	Construct small diameter roundabout	PE					95		1,082
				RW					42		
				CN						945	
8		Clearwater Avenue/Kellogg Street Intersection	Construct second southbound left turn lane. Signal modifications.	PE				98			1,187
				RW					112		
				CN						977	
9		Colorado Street Construction Ridgeline-Bob Olson Parkway	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination	PE					173		2,536
				RW					457		
				CN						1,906	
10		Columbia Center Boulevard Widening Deschutes to Quinault	Construct new 3rd northbound and southbound thru lanes, curb, gutter, sidewalk, storm drainage, illumination, signal modifications. At Quinault: construct 2nd eastbound	PE					769		9,195
				RW					735		
				CN						7,691	
11		Deschutes/Columbia Center Blvd Intersection	Construct westbound right turn lane onto CCB. In addition, proposed work will be in preparation for extending a third lane for north and south-bound traffic on Columbia Center Blvd.	PE							1,200
				RW	200						
				CN		1,000					
12		Kellogg Street/Metaline Avenue Intersection	Construct traffic signal	PE					42		536
				RW					21		
				CN						473	
13		Montana Street Extension Bob Olson Parkway-Ridgeline	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination	PE				105			1,537
				RW					277		
				CN						1,155	
14		Ridgeline Drive Extension Phase 3 Center Parkway-Sherman	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination	PE					294		3,765
				RW					231		
				CN						3,240	
15		Ridgeline Drive Reconstruction Sherman-Southridge	Construct 3-lane road with curb, gutter, sidewalks, illumination, intersection control.	PE					84		1,059
				RW					53		
				CN						922	
16		Sherman Street Reconstruction Ridgeline-Bob Olson	Construct 3-lane road with curb, gutter, sidewalks, illumination, intersection control.	PE					79		945
				RW							
				CN						866	
17		Steptoe Street/Gage Boulevard Intersection	Construct double left turn lanes and single right turn lanes at all approaches (where not existing). Eliminate split phase timing.	PE							3,400
				RW	400						
				CN		3,000					

CITY OF KENNEWICK

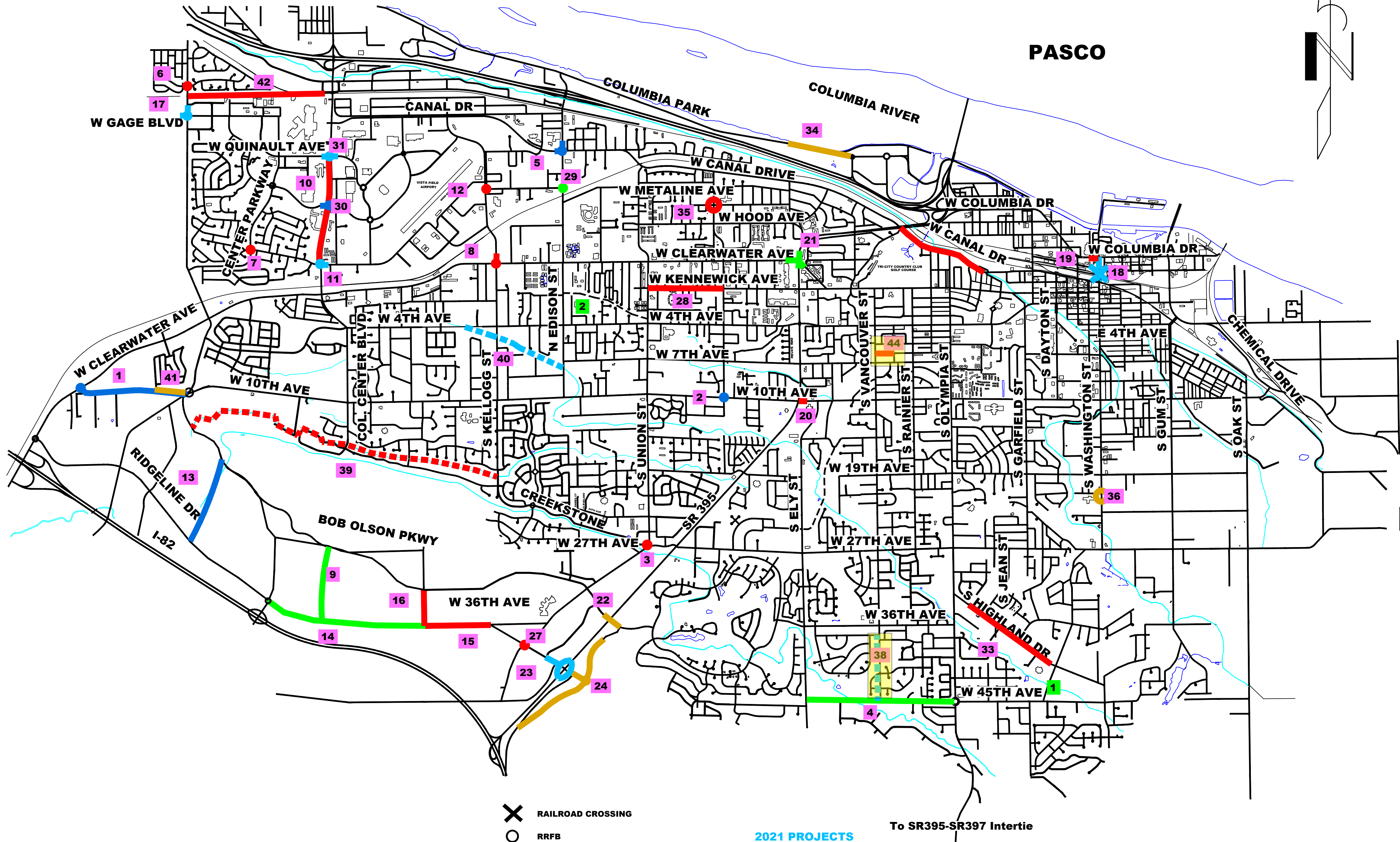
SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN (TIP) - 2021 TO 2026

Project ID	Map ID**	ROADWAY CAPITAL PROJECTS		Year 2021 Costs in \$ Thousands							
		Location	Description	Cost Type	2021	2022	2023	2024	2025	2026	Total
18		Washington Street - Complete Streets 1st Avenue -Columbia Dr	Connect wine village area with downtown, including sidewalks, benches, landscaping, railroad crossings, street lighting, and road widening/diet options	PE	37						500
				RW	37						
				CN	426						
19		Washington Street/Columbia Drive Intersection	Construct eastbound right turn lane	PE			53				610
				RW							
				CN				557			
20		US395/10th Avenue Intersection	Construct southbound dual left turn lanes	PE			105				1,113
				RW							
				CN				1,008			
21		US395/Clearwater Avenue Intersection	Construct dual eastbound left turn lanes, dual northbound left turn lanes, eastbound and westbound right turn lanes.	PE					263		263
				RW							
				CN							
22		US395/Hildebrand Intersection	Construct northbound and southbound dual left turn lanes, channelize eastbound and westbound dual left turn lanes, construct eastbound and westbound right turn lanes	RW							315
				PE							
				CN			315				
23		US395/Ridgeline Drive Interchange	Construct grade separated intersection at US395 and Ridgeline Drive, and associated vicinity improvements	PE							15,600
				RW							
				CN	7,800	7,800					
24		Zintel Way/Ridgeline Drive/Bofer Canyon	Construct remaining Zintel Way to 3-lane urban street and realign Bofer Canyon per US395/Ridgeline interchange project. Right-of-way by developer donation.	PE			105				1,470
				RW			210				
				CN			1,155				
25		Pavement Preservation (Capital) Citywide	Pavement infrastructure preservation capital projects, for arterials, collectors and local residential streets	PE							18,000
				RW							
				CN	3,000	3,000	3,000	3,000	3,000	3,000	
26		Traffic Signal System Upgrades/Retiming Citywide	New signal system equipment, software, communications, retiming and modifications	PE							1,020
				RW							
				CN	170	170	170	170	170	170	
27		Southridge & Ridgeline Intersection Roundabout	Expand Roundabout to a two-lanes roundabout	PE			105				1,208
				RW			53				
				CN					1,050		
28		Kennewick Avenue Union to Morain	Widening to three lanes	PE			210				2,520
				RW			210				
				CN					2,100		
29		Metaline & Edison Traffic Signal	Construct traffic signal	PE					42		536
				RW					21		
				CN						473	
30		Grandridge/Columbia Center Blvd Intersection	Intersection improvements	PE				105			1,365
				RW				210			
				CN					1,050		
31		Quinault/Columbia Center Blvd Intersection	Intersection improvements	PE							1,200
				RW	200						
				CN		1,000					
		Subtotal Roadway Capital Projects			14,291	18,622	8,647	15,782	22,454	14,049	93,845

CITY OF KENNEWICK											
SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN (TIP) - 2021 TO 2026											
TSP ID	Map ID	NON-MOTORIZED CAPITAL PROJECTS		Year 2021 Costs in \$ Thousands							
		Location	Description	Cost Type	2021	2022	2023	2024	2025	2026	Total
B-4	32	Canal Drive Sidewalks US395-Hartford	Construct new sidewalk - includes minor widening and curb construction	PE			19				263
				RW							
				CN				244			
B-5	33	Cascade Elementary School Sidewalk Highland Drive Walkway	Construct approximately 3,700 linear feet of shoulder, RFB and pedestrian facilities, on the south side of the street from Lyle Street to Cascade Street. Project includes a crossing of Highland Drive with a pedestrian activated Rectangular Rapid Flash Beacon	PE			42				620
				RW				210			
				CN					368		
B-1	34	East Columbia Park Bicycle Improvements - Phase 2 SR240 entrance to 1900' west South Side	Construct pavement widening for dedicated bicycle lanes, including permanent pavement markings and signage from rounabout to the golf course club house	PE		29					239
				RW							
				CN				210			
B-2	35	Hawthorne Elementary School Crossing Improvements John Day-400' north	Construct a new crossing at the intersection of Neel & John Day, construct a median refuge at the existing crossing at mid-block, extend the school zone on Neel Street to encompass both crosswalks, install RRFB at both crossings.	PE			17				183
				RW							
				CN				166			
B-6	36	Washington Elementary School Crossing Improvements @21st	Install rectangular rapid flash beacon and associated signage and channelization.	PE		5					52
				RW							
				CN				47			
	37	Sidewalk Renewals/Replacements/ADA Citywide	Repair/replace/construct sidewalk in areas of tripping hazards, damaged sidewalk, missing sidewalk, substandard or missing ADA ramps	PE							750
				RW							
				CN	125	125	125	125	125	125	
	38	Vancouver St. Pedestrian Pathway - 37th Ave. to 45th Ave.	Approx. 2,300 LF of paved pathway constructed on the west side of Vancouver to serve as a Safe Route to School.	PE	50						550
				RW							
				CN		500					
	39	KID ROW Kellogg & 27th to Highland Feeder	Approx. 11,200 LF of 10 foot wide trail on KID ROW. Old channel is slated to be enclosed .	PE			11				127
				RW							
				CN				116			
	40	KID ROW 4th to Edison	Approx. 3,700 LF of 10 foot wide trail on KID ROW. Old channel has been piped.	PE	42						462
				RW							
				CN			420				
	41	Sidewalk from Yolo to Bob Olson	Approx. 800 LF of sidewalk.	PE		11					111
				RW							
				CN			100				
	42	Steptoe Blvd. to Columbia Center Blvd. Pathway	Construct pathway along abandoned rail line.	PE			63				903
				RW				210			
				CN					630		
	43	Rectangular Rapid Flash Beacons Citywide	Installation of new crosswalk beacons at various locations as identified in the Local Road Safety Plan.	PE							450
				RW							
				CN	75	75	75	75	75	75	
	44	W. 6th Ave. Sidewalk - Vancouver to Tacoma	Construct approximately 630 LF of sidewalk on the south side of 6th Ave. adjacent to park. Will also include accomodations for storm.	PE			30				480
				RW							
				CN			450				
		Subtotal Non-Motorized Capital Projects			292	1,165	1,189	1,146	1,198	200	5,190
		TOTAL CAPITAL PROJECT COSTS			14,583	19,787	9,836	16,928	23,652	14,249	99,035

Added Projects for 2021-2026 TIP

CITY OF KENNEWICK TRANSPORTATION IMPROVEMENT PLAN 2021 - 2026



PASCO

To SR395-SR397 Intertie

CITY OF KENNEWICK SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN (TIP) - 2021 TO 2026 ROADWAY CAPITAL PROJECTS		
Map ID	Location	Description
1	10th Avenue Reconstruction Clearwater-Stepoe	Reconstruct to 3-lane road with curb, gutter, sidewalk, storm drainage and illumination. Widen Clearwater for left turn storage. Roundabout or Traffic Signal @ Clearwater & 10th Avenue.
2	10th Avenue/Morain Street Intersection	Construct traffic signal
3	27th Avenue/Southridge Intersection	Construct northbound right turn slip lane at roundabout
4	45th Avenue Widening Ely-Olympia	Reconstruct 2/3 lane road with curb, gutter, sidewalks, storm drainage, illumination, replace AC water lines.
5	Canal Drive/Edison Street Intersection	Construct second eastbound left turn lane (widen both east and west legs). Reconstruct accesses, sidewalk, frontage improvements, signal modification.
6	Traffic Signal @ Arrowhead and Stepoe	Traffic Signal Construction
7	Center Parkway/Deschutes Avenue Roundabout	Construct small diameter roundabout
8	Clearwater Avenue/Kellogg Street Intersection	Construct second southbound left turn lane. Signal modifications.
9	Colorado Street Construction Ridgeline-Bob Olson Parkway	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination
10	Columbia Center Boulevard Widening Deschutes to Quinault	Construct new 3rd northbound and southbound thru lanes, curb, gutter, sidewalk, storm drainage, illumination, signal modifications. At Quinault: construct 2nd eastbound
11	Deschutes/Columbia Center Blvd Intersection	Construct westbound right turn lane onto CCB, in addition, proposed work will be in preparation for extending a third lane for north and south-bound traffic on Columbia Center Blvd.
12	Kellogg Street/Metaline Avenue Intersection	Construct traffic signal
13	Montana Street Extension Bob Olson Parkway-Ridgeline	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination
14	Ridgeline Drive Extension Phase 3 Center Parkway-Sherman	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage and illumination
15	Ridgeline Drive Reconstruction Sherman-Southridge	Construct 3-lane road with curb, gutter, sidewalks, illumination, intersection control.
16	Sherman Street Reconstruction Ridgeline-Bob Olson	Construct 3-lane road with curb, gutter, sidewalks, illumination, intersection control.
17	Stepoe Street/Gage Boulevard Intersection	Construct double left turn lanes and single right turn lanes at all approaches (where not existing). Eliminate split phase timing.
18	Washington Street - Complete Streets 1st Avenue - Columbia Dr	Connect wine village area with downtown, including sidewalks, benches, landscaping, railroad crossings, street lighting, and road widening/diet options
19	Washington Street/Columbia Drive Intersection	Construct eastbound right turn lane
20	US395/10th Avenue Intersection	Construct southbound dual left turn lanes
21	US395/Clearwater Avenue Intersection	Construct dual eastbound left turn lanes, dual northbound left turn lanes, eastbound and westbound right turn lanes.
22	US395/Hildebrand Intersection	Construct northbound and southbound dual left turn lanes, channelize eastbound and westbound dual left turn lanes, construct eastbound and westbound right turn lanes
23	US395/Ridgeline Drive Interchange	Construct grade separated intersection at US395 and Ridgeline Drive, and associated vicinity improvements
24	Zintel Way/Ridgeline Drive/Bofer Canyon	Construct remaining Zintel Way to 3-lane urban street and realign Bofer Canyon per US395/Ridgeline interchange project. Right-of-way by developer donation.
25	Pavement Preservation (Capital) Citywide	Pavement infrastructure preservation capital projects, for arterials, collectors and local residential streets
26	Traffic Signal System Upgrades/Retiming Citywide	New signal system equipment, software, communications, retiming and modifications
27	Southridge & Ridgeline Intersection Roundabout	Expand Roundabout to a two-lanes roundabout
28	Kennewick Avenue Union to Morain	Widening to three lanes
29	Metaline & Edison Traffic Signal	Construct Traffic Signal
30	Grandridge/Columbia Center Blvd Intersection	Intersection Improvements
31	Quinault/Columbia Center Blvd Intersection	Intersection Improvements
NON-MOTORIZED CAPITAL PROJECTS		
Map ID	Location	Description
32	Canal Drive Sidewalks US395-Hartford	Construct new sidewalk - includes minor widening and curb construction
33	Cascade Elementary School Sidewalk Highland Drive Walkway	Construct approximately 3,700 linear feet of shoulder, RFB and pedestrian facilities, on the south side of the street from Lyle Street to Cascade Street. Project includes a crossing of Highland Drive with a pedestrian activated Rectangular Rapid Flash Beacon (RRFB).
34	East Columbia Park Bicycle Improvements - Phase 2 SR240 entrance to 1900' west South Side	Construct pavement widening for dedicated bicycle lanes, including permanent pavement markings and signage from roundabout to the golf course club house
35	Hawthorne Elementary School Crossing Improvements John Day-400' north	Construct a new crossing at the intersection of Neel & John Day, construct a median refuge at the existing crossing at mid-block, extend the school zone on Neel Street to encompass both crosswalks, install RRFB at both crossings.
36	Washington Elementary School Crossing Improvements @21st	Install rectangular rapid flash beacon and associated signage and channelization.
37	Sidewalk Renewals/Replacements/ADA Citywide	Repair/replace/construct sidewalk in areas of tripping hazards, damaged sidewalk, missing sidewalk, substandard or missing ADA ramps
38	Vancouver St. Pedestrian Pathway - 37th Ave. to 45th Ave.	Approx. 2,300 LF of pathway constructed on the west side of Vancouver to serve as a Safe Route to School
39	KID ROW Kellogg & 27th to Highland Feeder	Approx. 11,200 LF of 10 foot wide trail on KID ROW. Old channel is slated to be enclosed.
40	KID ROW 4th to Edison	Approx. 3,700 LF of 10 foot wide trail on KID ROW. Old channel has been piped.
41	Sidewalk from Yolo to Bob Olson	Approx. 800 LF of sidewalk.
42	Stepoe Blvd. to Columbia Center Blvd. Pathway	Construct pathway along abandoned rail line.
43	Rectangular Rapid Flash Beacons Citywide	Installation of new crosswalk beacons at various locations as identified in the local Road Safety Plan.
44	W. 6th Ave. Sidewalk - Vancouver to Tacoma	Construct approximately 630 LF of sidewalk on the south side of 6th Ave. adjacent to park. Will also include accommodations for storm.

CITY OF KENNEWICK REMOVED PROJECTS SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN (TIP) - 2020 TO 2025 ROADWAY CAPITAL PROJECTS		
Map ID	Location	Description
1	Cascade Street Extension 45th Avenue-Highland drive	Construct new 3-lane collector road with curb, gutter, sidewalk, storm drainage, canal crossing and illumination.
NON-MOTORIZED CAPITAL PROJECTS		
Map ID	Location	Description
2	KID ROW Edison to Union Trail	Approx. 3,200 LF of 10 foot wide trail on KID ROW. Old channel has been tubed.

- X RAILROAD CROSSING
- RRFB
- INTERSECTION IMPROVEMENT
- TRAILS, PATHWAY
- STREET, SIDEWALK, ETC
- GRADE SEPARATION
- PROJECT LOCATION
- X 2020-2025 TIP (DELETED) PROJECTS
- X 2021-2026 TIP (ADDED) PROJECTS

- 2021 PROJECTS
- 2022 PROJECTS
- 2023 PROJECTS
- 2024 PROJECTS
- 2025 PROJECTS
- 2026 PROJECTS



Council Agenda Coversheet



Agenda Item Number	7.a.	Council Date	06/16/2020
Agenda Item Type	General Business Item		
Subject	Ethics Complaint 19-01 Hearing Decision 19-01		
Ordinance/Reso #		Contract #	
Project #		Permit #	
Department	City Manager		

Consent Agenda	<input type="checkbox"/>
Ordinance/Reso	<input type="checkbox"/>
Public Mtg / Hrg	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>
Quasi-Judicial	<input type="checkbox"/>

Recommendation

Per the Hearing Decision dated March 20th, the Ethics Officer recommends that Councilmember Trumbo be reprimanded for his conduct.

Motion for Consideration

None Recommended.

Summary

On March 20th, the ethics officer provided the attached Hearing Decision in reference to complaint #19-01. In the ethics officer decision, he states "I therefore recommend that Mr. Trumbo be Reprimanded for his conduct." The ethics code section 2.06.060: - Complaints, Investigations, Hearings and Enforcement sets forth the process for Council to follow.

Councilmember Trumbo requested that a Council decision be postponed until we can have visitors at our Council meetings. Effective June 1st, visitors are able to provide comments to council during the council meeting. Therefore this item has been scheduled for final council action per section 2.06.060(3)-City Council Action. Per section 2.06.060(4), the following are the actions for consideration and by the majority vote of Council shall be final.

- * (a) Dismissal
- * (b) Referral
- * (c) Admonition
- * (d) Reprimand
- * (e) Censure
- * (f) Civil Penalty
- * (g) Contract Void
- * (h) Other Penalties

Alternatives

N/A

Fiscal Impact

N/A

Through

Dept Head Approval

City Mgr Approval

Marie Mosley
Jun 11, 20:31:23 GMT-0700 2020

Attachments:

Hearing Decision
Ethics Code

Recording Required?

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IN RE THE MATTER OF:

KENNEWICK CITY COUNCIL ETHICS
COMPLAINT AGAINST:

JOHN TRUMBO

No. 19-01

HEARING DECISION

INTRODUCTION

This matter pertains to a Complaint filed by Kennewick City Council members Paul Parish (now former member) and Chuck Torelli against fellow Council member John Trumbo. The Complaint was filed with the City on November 6, 2019. The Complaint alleged that Mr. Trumbo violated the Kennewick City Council Code of Ethics: specifically Chapter 2.06.040, regarding personal integrity. The crux of the Complaint was that Mr. Trumbo used his position or title to improperly seek information. A public hearing was held on February 19, 2020.

FACTUAL BACKGROUND

The Complaint pertains to a telephone conversation between Mr. Trumbo and LuAnn Davison. She had recently purchased a house in Kennewick. The telephone conversation took place on October 19, 2019. The conversation was about the purchase and sale of the real property in Kennewick. Ms. Davison was the buyer of the property. The seller of the property also

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1 received a telephone message from Mr. Trumbo, but never spoke to him. After the
2 conversation, Ms. Davison contacted the City to complain about Mr. Trumbo's conduct. The
3 seller also called the City to complain. The allegation against Mr. Trumbo involves the subject
4 matter and nature of the conversation with Ms. Davison.

5 ISSUES PRESENTED

6 Did Mr. Trumbo violate Section 2.06.040 of the City Council Code of Ethics due to his
7 telephone conversation with Ms. Davison?

8 And, if there was a violation of the Code of Ethics, what is an appropriate sanction?

9 CODE OF ETHICS

10 The Council Code of Ethics is codified in Section 2.06. Section 2.06.040(2) provides in
11 relevant part that the "professional and personal conduct of officials must be above reproach
12 and avoid even the appearance of impropriety."

13 Possible sanctions include;

- 14 ■ referral to another agency with jurisdiction over the violation;
- 15 ■ admonition;
- 16 ■ reprimand;
- 17 ■ censure;
- 18 ■ civil penalties.

19 Any sanction recommended by the Ethics Officer is subject to review by the City Council.

20 REVIEW OF EVIDENCE

21 The evidence in this case includes all matters submitted for the public record. The evidence
22 includes the initial Complaint and associated documents, including emails with City staff, and
23 the recording of the City Council meeting on November 5, 2019. The evidence includes the
24 testimony at the public hearing and all documents admitted into the public record at the
25 hearing.

26 At the public hearing, in his opening statement Mr. Trumbo asked that this matter be dismissed
outright for failure to properly state a claim. He pointed out that the Complaint was not sworn
out under penalty of perjury. His point is well taken, but the two complaining Council
members testified under oath at the hearing. Section 2.06.060(8) of the Ethics Code provides

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1 that the Code is to be “liberally construed to effect its purpose and policy”. Public policy is
2 best served if a matter is decided on its merits if possible, rather than dismissed because of a
3 procedural error.

4 Mr. Parish and Mr. Torelli testified under oath at the public hearing. They both testified that
5 they thought that Mr. Trumbo violated the Code of Ethics. Their combined testimony was that
6 Mr. Trumbo acted improperly. They said that he in some way implied an official capacity
7 during his telephone conversation with Ms. Davison. He failed to properly distance himself
8 from his position as City Council member as opposed to ordinary citizen. Both were of the
9 opinion that Mr. Trumbo had a pattern of such conduct.

10 Ms. Davison testified that she purchased a house in Kennewick prior to any of the events in
11 question here. Ms. Davison said she had a telephone conversation with Mr. Trumbo on
12 October 14, 2019. She said that he had left a voice mail message so she returned his call. Mr.
13 Trumbo asked if she knew anything about a mechanic’s lien on the house, in the amount of
14 approximately \$262,000. Mr. Trumbo also inquired as to whether improvements had been
15 recently made to the house that would correspond to that value. Ms. Davison asked why Mr.
16 Trumbo was interested. He said that no permit had been filed that corresponded with
17 substantial improvements. Mr. Trumbo explained that he was not calling about official City
18 business, but that he was a proponent of the fair payment of taxes. Ms. Davison was concerned
19 because he asked about a City permit but said that it was not City business. He mentioned the
20 payment of taxes, which relates to a governmental function.

21 Ms. Davison stated that Mr. Trumbo went on to ask questions about the former owner of the
22 house, referred to as “Seller”. Mr. Trumbo asked if Ms. Davison knew about the Seller’s
23 divorce, about Seller’s assets, and Seller’s family. Ms. Davison felt that the questions were
24 inappropriate. Ms. Davison was left with the impression that Mr. Trumbo was trying to obtain
25 information under false pretenses. Ms. Davison felt that the telephone call was overly intrusive
26 so she contacted City of Kennewick officials to complain about the conversation.

Mr. Trumbo presented evidence at the hearing and was allowed to cross-examine witnesses.
Mr. Trumbo presented his own testimony, three (3) Declarations of his own, plus testimony
from additional witnesses.

Mr. Trumbo testified that he is entitled to investigate matters without obtaining prior
permission from the City Council. He said that much of what he had found pertaining to the
property in question was a matter of public record. Mr. Trumbo explained that during the
telephone conversation with Ms. Davison he made it clear that he was neither calling as a
reporter for the Tri-City Herald nor as a City Council member.

Mr. Trumbo was concerned in part that proper permits were not obtained for improvements
done to the house. He was concerned that the house was sold at less than full market value. He
was also aware of at least one pending lawsuit involving the Seller. Mr. Trumbo also

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1 presented evidence in his Third Declaration relating to the Seller and financial records, mostly
2 pertaining to the real property in question. The inference is that Mr. Trumbo was seeking
3 information about the Seller.

4 Mr. Trumbo's evidence gave the impression that the Seller of the property was engaged in
5 some sort of improper conduct. Mr. Trumbo's motivation was not to intrude on Ms. Davison,
6 but to learn more about the Seller's situation. He was not motivated by personal advancement
7 nor personal gain.

8 The evidence presented by Mr. Trumbo seems to suggest that the Seller had financial, personal,
9 and even political problems. The evidence intimates some sort of scandal. I cannot make any
10 determination of whether Seller has ever engaged in improper activity. I do determine that the
11 Seller's conduct is irrelevant to this matter. The relevant issue is Mr. Trumbo's conversation
12 with Ms. Davison.

13 Lastly, Mr. Trumbo argued that there was no evidence of a pattern of misconduct. He pointed
14 out that the prior complaint against him was not subject to a public hearing. The decision
15 about the complaint was made by the City Council, but other than its mention, there was no
16 evidence presented about the particulars of the prior complaint. Mr. Trumbo's point is well
17 taken. Other than the idea that both complaints involve some misrepresentation of public or
18 private status, there is no evidence presented to show how the two complaints are similar.

19 FINDINGS OF FACT

- 20 1. The failure to attest to the Complaint under penalty of perjury was remedied by the
21 sworn testimony of the two Council members who filed the Complaint.
- 22 2. Mr. Trumbo engaged in a telephone conversation with Ms. Davison, and asked
23 intrusive questions.
- 24 3. Mr. Trumbo was not acting on behalf of the City during his telephone call with Ms.
25 Davison.
- 26 4. Mr. Trumbo, despite his efforts to the contrary, improperly created the impression that
he was acting in his capacity as a City Council member.
5. Mr. Trumbo's motive for his conduct appears to be well meaning, but the reason for the
conduct does not justify the method of the conduct.

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CONCLUSIONS OF LAW

1. This matter is properly before the Ethics Officer.
2. The Ethics Officer has jurisdiction to hear this matter.
3. The City Ethics Code requires that members of the Council go above and beyond the standards required of a private citizen.
4. Mr. Trumbo violated Section 2.06.040 of the City Council Ethics Code because he failed to conduct himself to the highest standards of professional and ethical conduct in that he failed to avoid leaving the impression of acting under false appearances.


RECOMMENDATION

I have found a violation of the City Council Code of Ethics 2.06.040. However, I do not find that the violation was based on any improper motive. I also do not find that the violation was shown to be part of a pattern of conduct. I therefore recommend that Mr. Trumbo be Reprimanded for his conduct.

At the City Council meeting on November 5, 2019, Mr. Trumbo said that he did everything he needed to do to properly identify himself. He did all that he needed to do to make it clear that he was not acting in his capacity as a City Council member. It speaks volumes that the day after the telephone conversation, two individuals called the City to complain.

Mr. Trumbo stated at the Council meeting that he could not help it if someone thinks he was "disingenuous". The word disingenuous has several meanings. Most relevant here are lack of candor or false appearance. Whether Mr. Trumbo intended to give a false appearance, he certainly left one with Ms. Davison. The Ethics Code requires that a Council member has a duty to avoid creating the appearance of impropriety.

Dated this 20th day of March, 2020.

By: 
Thomas J. Atwood, WSBA #15186
City Ethics Officer

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CHAPTER 2.06 - COUNCIL CODE OF ETHICS

2.06.010: - Policy:

- (1) Purpose. The Kennewick City Council has adopted a Code of Ethics for members of the City Council to promote public confidence in the integrity of local government and its fair operation. This Code of Ethics will provide the basis for education and training for Council Members; both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.
- (2) Intent. The citizens and businesses of Kennewick are entitled to have fair, ethical and accountable local government that has earned the public's full confidence. The City Council is committed to upholding the City of Kennewick Core Values which state:

We will provide excellent public service and ensure the safety and wellbeing of our community and one another through the empowerment of each employee. We value integrity, inclusiveness, stewardship and communication.

We are accountable to our community for innovation and collaborative efforts that anticipate needs, leverage resources and deliver solutions.

Integrity: We hold ourselves to the highest standard of professionalism and ethical conduct.

Inclusiveness: We embrace diversity and value different perspectives as we work together for the common good.

Stewardship: We ensure the public's resources are used responsibly to provide the greatest benefit.

Communication: We will listen and engage in an open, honest and timely exchange of information.

- (3) In keeping with the City of Kennewick's commitment to excellence, the effective functioning of democratic government therefore requires that:
 - (a) Public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;
 - (b) Public officials be independent, impartial and fair in their judgment and

actions;

- (c) Public office be used for the public good, not for personal gain; and
- (d) Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

(Ord. 5812 Sec. 1(part), 2019)

2.06.020: - Definitions.

- (1) "Official" means a member of the City Council elected or appointed.
- (2) "Relative" means spouse or domestic partner, child, step-child, parent, step-parent, parent-in-law, grandparent, grandchild, sibling, aunt, uncle, niece, nephew, son- or daughter-in-law, brother- or sister-in-law.

(Ord. 5812 Sec. 1(part), 2019)

2.06.030: - Prohibited Conduct.

- (1) Conflicts of Interest. In order to ensure their independence and impartiality on behalf of the common good, officials shall not participate in government decisions in which any of the following has a financial interest:
 - (a) The official;
 - (b) A relative;
 - (c) An individual with whom the official resides; or
 - (d) An entity that the official serves as an officer, director, trustee, partner or employee.

Officials shall abstain from participating in deliberations and decision-making where conflicts exist.

- (2) Appearance of Conflict. If it could appear to a reasonable person, having knowledge of the relevant circumstances, that the official's judgment is impaired because of either:
 - (a) A personal or business relationship not covered under the foregoing subsection; or
 - (b) A transaction or activity engaged in by the official;

the official shall disclose the facts giving rise to the appearance of a conflict

before participating in the matter.

- (3) Misuse of Public Position or Resources. Except for infrequent use at little or no cost to the City, officials shall not use public resources that are not available to the public in general, such as city staff time, equipment, supplies or facilities, for other than a city purpose.
- (4) Representation of Third Parties. The members of the City Council shall not appear on behalf of the financial interest of third parties before the Council or any board, commission or proceeding of the City, or in interaction with staff.
- (5) Solicitations of Charitable Contributions. No official may make direct personal solicitations for charitable contributions from city employees.
- (6) Gifts and Favors. Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by the official in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law.
- (7) Confidential Information. Officials shall not disclose or use any confidential information gained by reason of their official position for other than a city purpose. "Confidential information" means:
 - (a) Specific information, rather than generalized knowledge, that are not available to a person who files a public records request; and
 - (b) Information made confidential by law.

(Ord. 5812 Sec. 1(part), 2019)

2.06.040: - Ethical Standards.

In addition to Section 2.06.030 of the Code of Ethics, which shall be administered by the Ethics' Officer, officials are also required to comply with the following standards:

- (1) Compliance with Other Laws. Officials shall comply with federal, state and city laws in the performance of their public duties. These laws include, but are not limited to: the United States and Washington Constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures and open processes of government; and city ordinances and policies. See Appendix A. As required by RCW 42.17A.565, no official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any city employee. Except under limited circumstances described in RCW 42.17A.555 no official may use or authorize the use of the facilities of the City for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.
- (2) Personal Integrity. The professional and personal conduct of officials must be above reproach and avoid even the appearance of impropriety. Officials shall refrain from abusive conduct, threats of official action, personal accusations or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public. Officials shall maintain truthfulness and honesty and not compromise themselves for advancement, honor, or personal gain. Additionally, officials shall not directly or indirectly induce, encourage or aid anyone to violate the Code of Ethics and it is incumbent upon officials to make a good faith effort to address apparent violations of this Code of Ethics.
- (3) Working for the Common Good. Recognizing that stewardship of the public interest must be their primary concern, officials will work for the common good of the people of Kennewick and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the City Council. Officials need to be mindful that making special requests of staff - even when the response does not benefit the official personally - puts staff in an awkward position. Questions for city staff members shall be submitted to the City Manager who will then coordinate with staff to provide a response.
- (4)

Respect for Process. Officials shall perform their duties in accordance with the processes and rules of order established by the City Council governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by city staff.

- (5) Commitment to Transparency. Transparency, openness, and accountability are fundamental values of the City and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records unless exempt by law from disclosure. All materials relating to the conduct of city government that are prepared, possessed, used or retained by any official, including email, text messages and other electronic records, are subject to requirements for retention, protection, and disclosure. Officials may assume that all copies of materials received from city staff have already been archived and do not need to be retained. Officials shall not discard, damage, or destroy the original copy of any public record unless directed by the city public records officer (the city clerk), who has responsibility to ensure that the City complies with the record retention schedules established under Chapter 40.14 RCW. Officials shall promptly provide any records requested by the public records officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility of the public records officer, together with the city attorney, to decide which records meet the definition of "public record" and whether or not they are exempt from disclosure; officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record.
- (6) Conduct of Public Meetings. Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.
- (7) Decisions Based on Merit. Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
- (8)

Ex Parte Communications. In quasi-judicial matters, officials shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.

- (9) Attendance. Attendance at regular council meetings by Council Members is required absent being excused per KMC 2.04.050(2). As provided in RCW 35A.12.060, a Council Member shall forfeit his or her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council.
- (10) Nepotism. A Council Member may not vote or participate in the interview or appointment of a relative to boards or commissions or other appointed positions.
- (11) Advocacy. When acting in an official capacity as a city official representing the City, officials shall represent the official policies or positions of the City Council, to the best of their ability when the City Council, has taken a position or given an instruction. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Kennewick, nor will they allow the inference that they do. Officials have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to make or display endorsements during council meetings, board/commission meetings, or other official city meetings.
- (12) Policy Role of Officials. Officials shall respect and adhere to the council-manager structure of Kennewick city government as outlined by Chapter 35A.13 RCW. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and city staff. Except as provided by state law, officials shall not interfere with the administrative functions of the City or the professional duties of city staff; nor shall they impair the ability of staff to implement Council policy decisions.

APPENDIX A

Ch. 9A.72 RCW	Perjury and interference with official proceedings
RCW 35A.12.060	Vacancy for nonattendance

Ch. 35A.13 RCW	Council-Manager plan of government Incompatible offices
Ch. 40.14 RCW	Preservation and destruction of public records
RCW 42.17A.555	Use of public office or agency facilities in Campaigns - Prohibition - Exceptions
RCW 42.17A.565	Solicitation of contributions by public officials or Employees
Ch. 42.23 RCW	Code of Ethics for municipal officers - Contract Interests
Ch. 42.36 RCW	Appearance of Fairness Doctrine - Limitations
Ch. 42.56 RCW	Public Records Act

(Ord. 5812 Sec. 1(part), 2019)

2.06.050: - Ethics Officer.

- (1) The City Council creates the office of the Ethics' Officer. The Ethics' Officer will interpret and apply the council code of ethics to complaints submitted to the Officer. The Ethics Officer will be appointed solely with regard to their qualifications for the duties of the office which shall include, but not be limited to, appropriate educational and legal experience. The Ethics' Officer, in addition to other duties, may recommend changes or additions to this Council Code of Ethics to the City Council.
- (2) The Council Interview Committee, City Manager and City Attorney will interview applicants who respond to the City's Request for Proposals for the Ethics Officer. The Committee will forward two candidates to the full City Council for review and appointment by a majority vote of the Council.

(Ord. 5812 Sec. 1(part), 2019)

2.06.060: - Complaints, Investigations, Hearings and Enforcement:

The Ethics Officer may resolve inadvertent and minor violations of the Code of Ethics informally, unless the Ethics' Officer determines that doing so would not serve the public interest. When a violation is neither inadvertent nor minor, the Ethics' Officer shall initiate an action in accordance with this section.

(1) Complaint Process.

- (a) **Complaint Requirements - Service.** Two officials are required to sign off on a written complaint before it can be filed with the Ethics' Officer alleging one or more violations of this Code of Ethics by an official. The complaint must set forth specific facts with enough precision and detail for the Ethics' Officer to make a determination of sufficiency. It must be signed under penalty of perjury by the officials submitting it in a manner consistent with Chapter 9A.72 RCW. The complaint shall be filed with the city clerk who will date-stamp it as received and forward it to the Ethics Officer.
- (b) **Finding of Sufficiency.** The Ethics Officer shall make a determination of sufficiency within 30 days of receipt of the written complaint. A complaint shall be sufficient if the allegations, if established, would violate Section 2.06.030 or 2.06.040 of this Code. The Ethics Officer's determination is not reviewable. If the finding is one of sufficiency of the complaint, then the Ethics Officer shall investigate the complaint as set forth below.
- (c) **Dismissal.** The Ethics Officer shall dismiss the complaint if the Ethics Officer determines that the violation was inadvertent and minor; or a violation occurred, but appropriate actions have been taken to fully address the allegedly unethical conduct. A decision for dismissal as noted above is final and not reviewable.
- (d) **Notice.** Notice of action by the Ethics Officer shall be provided as follows:
 - (i) Notice of a finding of insufficiency or dismissal of a complaint by the Ethics Officer shall be sent to the officials who made the complaint and the official complained against within seven days of the decision by the Ethics Officer. A finding of insufficiency or

dismissal of a complaint by the Ethics Officer is final and binding, and no administrative or other legal appeal is available through the Ethics Officer.

- (ii) Within seven days of the Ethics Officer rendering a finding of sufficiency, the city clerk shall send notice to the officials who made the complaint and the official complained against, of the Ethics Officer's determination. If, after investigation, the Ethics Officer has reason to believe that a material violation of Section 2.06.030 or 2.06.040 has occurred, the city clerk shall give notice of the public hearing which will be held to determine if a violation has occurred. Notice shall be provided at least 30 days prior to the date set for the hearing. The official complained against shall have the right to file a written answer to the charge and to appear at the hearing with or without legal counsel, submit testimony, be fully heard, and to examine and cross examine witnesses.
 - (e) Stipulations. At any time after a complaint has been filed with the Ethics Officer, the Ethics Officer may seek and make recommendations that the City Council enter into a stipulation with the official complained against. The recommended stipulation will include the nature of the complaint, relevant facts, the reasons the Ethics Officer thinks a stipulation is appropriate, an admission of the violation by the official complained against, a promise by the official complained against not to repeat the violation, and if appropriate, a recommended remedy or penalty. The recommended stipulation shall be sent to the officials who made the complaint and the official complained against and forwarded to the City Council for action.
- (2) Conduct of Hearings.
- (a) All hearings on complaints found to be sufficient shall be conducted by the Ethics Officer and are open to the public. The hearing shall be informal, meaning that the Ethics Officer shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The Ethics Officer may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence as needed. To that end, the Ethics Officer shall issue subpoenas and subpoenas duces tecum. All

testimony shall be under oath administered by the Ethics Officer. The Ethics Officer may adjourn the hearing from time to time to allow for the orderly presentation of evidence. The Ethics Officer shall prepare an official record of the hearing, including all testimony, which shall be recorded by mechanical device, and exhibits; provided, that the Ethics Officer shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.

- (b) Within 30 days after the conclusion of the hearing, the Ethics Officer shall, based upon a preponderance of the evidence, make and fully record in his or her permanent records, findings of fact, conclusions of law, and his or her recommended disposition. A copy of the findings, conclusions, and recommended disposition shall be sent to the officials who made the complaint and to the official complained against. Additional copies of the findings, conclusions, and recommendations shall be forwarded to the City Council.
- (3) City Council Action. Final City Council action to decide upon stipulations and recommendations from the Ethics Officer or findings, conclusions, and recommendations from the Ethics Officer shall be by majority vote in a public meeting. Deliberations by the Council may be in executive session. The member of the Council against whom the complaint was made will not participate in any executive session and shall not vote on any matter involving him or herself. However, upon request of the member of the Council against whom the complaint was made, a public meeting before the Council will be held on the issue of penalties.
- (4) Disposition. In the event the Ethics Officer finds that the person against whom the complaint was made has violated the Code of Ethics, then the City Council may take any of the following actions by a majority vote of the Council. The action of the City Council shall be final and not subject to further review or appeal except as may be otherwise provided by law or as provided in subsection (5) of this section.
 - (a) Dismissal. Dismissal of the complaint without penalties.
 - (b)

Referral. A complaint may be referred to another agency with jurisdiction over the violation, such as the Public Disclosure Commission. Final action on the complaint may be stayed pending resolution of the matter by the agency to which it was referred.

- (c) Admonition. An admonition shall be an oral non-public statement made by the mayor, or his/her designee, or if the complaint is against the mayor, the mayor pro-tem or his/her designee, to the official.
- (d) Reprimand. A reprimand shall be administered to the official by a motion of reprimand by the majority of the City Council.
- (e) Censure. A resolution of censure shall be a resolution read to the person in public. The resolution shall be prepared by the City Council and shall be signed by the mayor, or if the complaint is against the mayor, the mayor pro-tem. The person shall appear at a City Council meeting at a time and place directed by the City Council to receive the resolution of censure. Notice shall be given at least 20 calendar days before the scheduled appearance at which time a copy of the proposed resolution of censure shall be provided to the person. The resolution of censure shall be read publicly, and the person shall not make any statement in support of, or in opposition thereto, or in mitigation thereof. The resolution of censure shall be read at the time it is scheduled whether or not the official appears as required.
- (f) Civil Penalties. The City Council may assess a civil penalty of up to \$1,000.00 or three times the economic value of anything received in violation of this Code of Ethics or three times the economic value of any loss to the City, whichever is greater. Any monetary penalty assessed civilly shall be placed in the City's general fund. The City Council may also suspend a portion of a civil penalty imposed on condition the Council Member have no other violations of the Council Code of Ethics for one year.
- (g) Contract Void. As provided by RCW 42.23.050, any contract made in violation of Chapter 42.23 RCW, "Code of Ethics for municipal officers - contract interests," is void.
- (h)

Other Penalties. The City Council may impose a restriction, loss of a committee assignment, or loss of appointment as a representative of the city for any regional or multijurisdictional body or membership on any board or commission which requires an appointment or confirmation of an appointment by the City Council.

- (5) Review of Civil Penalties. If the City Council orders an official to pay a civil penalty, the official may seek a writ of review from the superior court pursuant to Chapter 7.16 RCW, within 30 days of the City Council's order.
- (6) Protection Against Retaliation. Neither the City nor any official may take or threaten to take, directly or indirectly, official or personal action, including, but not limited to, discharge, discipline, personal attack, harassment, intimidation, or change in job, salary, or responsibilities, against any council member because that council member files a complaint with the Ethics Officer.
- (7) Public Records. Records filed with the Ethics Officer become public records that may be subject to inspection and copying by members of the public, unless an exemption in law exists. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.56.230(2), identity information may be redacted when an unsubstantiated complaint is made available in response to a public records request; however, in each case, the justification for the redaction shall be explained fully in writing. A finding by the Ethics Officer determining that a complaint is sufficient shall contain at the beginning the following specific language:

NOTICE: ANY PORTION OF THIS FINDING DETERMINING SUFFICIENCY OF ANY PORTION OF A COMPLAINT DOES NOT DETERMINE THE TRUTH OR FALSITY OF THE ALLEGATIONS CONTAINED IN THE COMPLAINT FILED WITH THE ETHICS' OFFICER. THE ETHICS' OFFICER HAS ONLY DETERMINED THAT IF CERTAIN FACTS CONTAINED IN THE COMPLAINT ARE FOUND TO BE TRUE DURING A LATER HEARING TO BE CONDUCTED BY THE ETHICS' OFFICER, THEN VIOLATION(S) OF THE CODE OF ETHICS MAY BE FOUND TO HAVE OCCURRED.

The City shall release copies of any written reports resulting from an investigation of a sustained complaint, any Ethics' Officer Orders, and any written censures or reprimands issued by the City Council, in response to public records requests consistent with Chapter 42.56 RCW and any other applicable public disclosure laws.

(8) Liberal Construction - Limitation Period - Effective Date.

- (a) This Code of Ethics shall be liberally construed to effectuate its purpose and policy and to supplement existing laws that relate to the same subject.
- (b) Any action taken under this Code of Ethics must be commenced within two years from the date of violation.

(Ord. 5812 Sec. 1(part), 2019)



City Council Meeting Schedule July 2020

July 7, 2020

Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

July 14, 2020

Tuesday, 6:30 p.m.

WORKSHOP MEETING

1. Fire Department Update
2. Police Department Update
3. City Attorney Update

July 21, 2020

Tuesday, Time TBD

COUNCIL RETREAT

Hilton Garden Inn -701 N. Young St

Tuesday, 6:30 p.m.

REGULAR COUNCIL MEETING

July 28, 2020

Tuesday, 6:30 p.m.

WORKSHOP MEETING

1. Rock Blasting Ordinance
2. Public Works Update
3. WWTP Phase II Update
4. Management Services Update

To assure disabled persons the opportunity to participate in or benefit from City services, please provide twenty-four (24) hour advance notice for additional arrangements to reasonably accommodate special needs.

Please be advised that all Kennewick City Council Meetings are Audio and Video Taped