



## **CITY COUNCIL MEETING\***

### **August 1, 2023 – Agenda**

City Hall, 920 SE Cedar Falls Way, North Bend, Washington

**7:00 P.M. – CALL TO ORDER, ROLL CALL, FLAG SALUTE**

#### **CONSENT AGENDA:**

		<b>Pg.#</b>
<b>1) Minutes</b>	City Council Meeting of July 18, 2023	<b>1</b>
<b>2) Payroll</b>	July 20, 2023 – 28674 through 28680, in the amount of <b>\$286,165.31</b>	
<b>3) Checks</b>	August 1, 2023 – 74323 through 74381, in the amount of <b>\$1,625,876.98</b>	
<b>4) AB23-087</b>	Resolution – Suspending 2024 Comp Plan Docket Process	Ms. Deming <b>5</b>
<b>5) AB23-088</b>	Resolution – Awarding Alm Way Bridge Removal Capital Project	Mr. Rigos <b>9</b>
<b>6) AB23-089</b>	Resolution – Awarding North Bend Bridge 1135-3 Scour Project	Mr. Rigos <b>15</b>
<b>7) AB23-090</b>	Motion – Authorizing Amendment No. 4 to Parametrix Contract	Mr. Rigos <b>21</b>
<b>8) AB23-091</b>	Motion – Authorizing Amendment No. 1 to KBA Contract for Inspection Services	Mr. Rigos <b>35</b>
<b>9) AB23-092</b>	Resolution – Authorizing DEA with Otis Milam for Sewer Extension	Mr. Rigos <b>43</b>

**CITIZEN'S COMMENTS:** (Please restrict comments to 3 minutes)

#### **ANNOUNCEMENTS, PRESENTATIONS, APPOINTMENTS:**

<b>10) AB23-093</b>	Appointment of City Attorney	Mayor McFarland <b>99</b>
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#### **INTRODUCTIONS:**

<b>11) AB23-094</b>	Motion – Authorizing Contract with FCS Group for Fiscal Sustainability Analysis	Mr. Miller <b>103</b>
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**MAYOR, COUNCIL & ADMINISTRATOR CONCERNS AND INITIATIVES:** (Business and general information presented that may be deliberated upon by the Council. Formal action may be deferred until a subsequent meeting; immediate action may be taken upon a vote of a majority of all members of the Council.)

**EXECUTIVE SESSION:** To Discuss Property Acquisition, pursuant to RCW 42.30.110 (1)(b) & Potential Litigation, pursuant to RCW 42.30.110(1)(i)

#### **ADJOURNMENT:**



**\*PLEASE NOTE:** Members of the public may choose to attend in person or by teleconference. It is strongly encouraged that members of the public that are attending by teleconference provide comments in advance of the meeting. Please email comments on any agenda items prior to the meeting to the City Clerk at [soppedal@northbendwa.gov](mailto:soppedal@northbendwa.gov). Please provide comments by 5 p.m., Tuesday, August 1, 2023 so a copy can be provided to the City Council prior to the meeting.

Those wishing to access the meeting by teleconference will be required to have a registered Zoom account and display your full name to be admitted to the online meeting.

Zoom Meeting Information:

To Sign Up for a Zoom Account: <https://zoom.us/join>

Meeting ID: 881 2610 1456

Password: 658184

Call In Phone Number: 1-253-215-8782

**NORTH BEND CITY COUNCIL MINUTES**

**July 18, 2023**

City Hall, 920 SE Cedar Falls Way, North Bend, Washington

**CALL TO ORDER, ROLL CALL:**

Mayor McFarland called the regular meeting to order at 7:00 p.m.

**Councilmembers Present:** Gothelf, Joselyn, Koellen, Loudenback and Miller. Councilmembers Elwood and Rosen were excused.

**CONSENT AGENDA:**

**Minutes** – City Council Workstudy of May 23, 2023, City Council Meeting of June 20, 2023 & City Council Workstudy of June 27, 2023

**Payroll** – **June 20, 2023 – 28659** through **28665**, in the amount of **\$288,445.55**

**July 5, 2023 – 28666** through **28673**, in the amount of **\$391,850.27**

**Checks** – **July 4, 2023 – 74207** through **74279**, in the amount of **\$841,497.41**

**July 18, 2023 – 74280** through **74322**, in the amount of **\$758,734.92**

**AB23-080** – Resolution 2073 Accepting Cascade Canyon Infrastructure Improvements

**AB23-081** – Motion Authorizing Contract with G&O for Boxley Creek Sallal Intertie

**AB23-082** – Motion Authorizing Contract with SAM for Survey Related Services

**AB23-083** – Motion Authorizing Change Order No. 1 with Permabilt

**AB23-084** – Motion Approving TIB Match for 2023 NB Way Overlay Project

Councilmember Gothelf **MOVED**, seconded by Councilmember Miller to approve the consent agenda as presented. The motion **PASSED** 5-0.

**CITIZEN'S COMMENTS:**

**Debra Landers**, 14615 438<sup>th</sup> Ave. SE, North Bend Art & Industry, thanked those that attended the recent ribbon cutting event for her organization's new facility and invited all to attend the upcoming September 23<sup>rd</sup> Art Off the Rails Festival at Snoqualmie and North Bend Railway Depots. Additionally, she requested the trail area near their facility located at 209 Main Ave. South be kept groomed.

**Anita Young**, 243 E 2<sup>nd</sup> Street, Twin Peaks Pub, explained she was trying to expand card game activities/fundraising events at her pub which required an unhoused social card game license from the State Gambling Commission. She explained the difference between NBMC 9.115.020 (Social Card Games Prohibited) and the activities she wishes to provide at her business and requested the City provide the necessary sign off on acknowledgment of the license.

**Trevor Lefebvre**, 321 SE Orchard Drive #19, spoke in favor of Ms. Young's request and

requested an exception to NBMC 9.115.020 to allow for a social card game license with the Gambling Commission which will allow for hosting of semi-regular card game tournaments at Twin Peaks Pub.

**Chris Ramsey**, 42128 SE 168<sup>th</sup> Street, spoke in favor of Ms. Young's request and the benefits it would provide to the downtown community.

#### **ANNOUNCEMENTS, PRESENTATIONS, APPOINTMENTS:**

##### **Presentation – Vision 2050 Award**

**Audio: 13:09**

Puget Sound Regional Council Executive Director Josh Brown presented the Vision 2050 Award for "Working Together" to Snoqualmie Valley Transportation, Mt Si Senior Center and the cities of North Bend and Snoqualmie. Snoqualmie Valley Transportation Director Amy Biggs and Mayor McFarland accepted the award.

#### **COMMISSION AND COMMITTEE REPORTS:**

**Community & Economic Development Committee** – Councilmember Miller, Chair  
A report of the July 18<sup>th</sup> meeting was provided.

**Finance & Administration Committee** – Councilmember Gothelf, Chair  
A report of the July 11<sup>th</sup> meeting was provided.

**Public Health & Safety Committee** – Councilmember Rosen, Chair  
No report. The July 4<sup>th</sup> meeting was cancelled.

**Transportation & Public Works Committee** – Councilmember Loudenback, Chair  
A report of the June 27<sup>th</sup> meeting was provided.

**Council Workstudy** – Mayor Pro Tem Koellen  
A report of the June 27<sup>th</sup> meeting was provided.

**Eastside Fire & Rescue Board Meeting** – Councilmember Gothelf  
A report of the July 13<sup>th</sup> meeting was provided.

**Planning Commission**  
A report of the June 27<sup>th</sup> OMPA training event was provided.

**Parks Commission**  
A report of the June 28<sup>th</sup> meeting was provided.

**Economic Development Commission**  
A report of the June 27<sup>th</sup> meeting was provided.

**Snoqualmie Valley Government Association** – Mayor McFarland  
A report of the May 24<sup>th</sup> meeting was provided.

**King County Flood Control District** – Mayor McFarland  
A report of the July 14<sup>th</sup> meeting was provided.

#### **INTRODUCTIONS:**

**AB23-085** – Motion Authorizing Lease with WA State Dept. of Fish & Wildlife Audio: 32:49

Deputy City Administrator/Public Works Director Rigos provided the staff report.

Councilmember Gothelf **MOVED**, seconded by Councilmember Joselyn to approve AB23-085, authorizing the Mayor to sign a Second Amendment to the Lease Agreement with Washington State Department of Fish and Wildlife (DFW) for partial use of Former CED Annex Building, in a form and content approved by the City Attorney. The motion **PASSED** 5-0.

**AB23-086** – Motion Authorizing Purchase of Street Sweeper Audio: 35:54

Deputy City Administrator/Public Works Director Rigos provided the staff report.

The following individuals commented on the agenda item:

**Chris Ramsey**, 42128 SE 168<sup>th</sup> Street

Councilmember Loudenback **MOVED**, seconded by Councilmember Miller to approve AB23-086, authorizing the purchase of a street sweeper through the WA State DES Contract and authorizing the Mayor to execute any applicable contracts, in a form and content acceptable to the City Attorney, in an amount not to exceed \$413,731.04 plus sales tax. The motion **PASSED** 5-0.

#### **MAYOR, COUNCIL, AND ADMINISTRATOR CONCERNS AND INITIATIVES:**

Councilmember Gothelf encouraged everyone to enjoy the nice weather and encouraged safe travels to those students traveling to college in the fall.

Councilmember Miller mentioned the recent block party and how much she enjoyed being a part of the festival activities serving as Master of Ceremonies (MC) with Mayor McFarland at the main stage and taking photos of the event. She thanked the North Bend Downtown Foundation, City staff and volunteers for helping with the event.

Councilmember Joselyn suggested the City consider keeping with the Star Wars theme when naming the new street sweeper.

Councilmember Loudenback commented on the success of the Block Party and thanked Mary for serving as MC and City staff for volunteering. Additionally, he announced his upcoming resignation from the City Council.

Councilmember Koellen echoed fellow Councilmembers comments on the Block Party and thanked the Snoqualmie Tribe for their donation of an aid car to Eastside Fire & Rescue.

City Administrator Miller

Mayor McFarland spoke regarding the following items:

- Retirement of CED Office Coordinator Tom Meagher
- Block Party Wrap-Up
- National Night Out – August 1<sup>st</sup> 4 – 8 p.m. @ Snoqualmie Community Park
- North Bend Theater Summer Matinee Series
- North Bend History 101 – July 19<sup>th</sup> 6:30 p.m. @ North Bend Library
- Meet Up with the Mayor – July 26<sup>th</sup> 5 – 6 p.m. @ Volition Brewing

## ADJOURNMENT:

Councilmember Gothelf **MOVED** to adjourn, seconded by Councilmember Miller. The motion **PASSED** 5-0.

The meeting adjourned at 7:54 p.m.

## ATTEST:

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Rob McFarland, Mayor

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Susie Oppedal, City Clerk



# City Council Agenda Bill

SUBJECT:	Agenda Date: August 1, 2023	AB23-087
<b>Resolution Suspending the 2024 Comprehensive Plan Docketing Process</b>	Department/Committee/Individual	
	Mayor Rob McFarland	
	City Administrator – David Miller	
	City Attorney – Lisa Marshall	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Comm. & Economic Development – Rebecca Deming	X
Cost Impact: N/A	Finance	
Fund Source: N/A	Public Works – Mark Rigos	
Timeline: Immediate		

**Attachments:** Resolution

## SUMMARY STATEMENT:

Washington State law requires that King County and incorporated cities within the County prepare comprehensive plans consistent with Revised Code of Washington (RCW) Chapter 36.70A and rules set by the Department of Commerce, Washington Administrative Code (WAC) Chapter 365-196. Under these laws, comprehensive plans and development regulations are subject to ongoing review, including receiving suggestions from the public regarding proposed amendments to a comprehensive plan. RCW 36.70A.130(2)(b) requires proposed updates, amendments, or reviews to be simultaneous to ensure that cumulative impacts to a city's plan are addressed.

Chapter 20.08 of the North Bend Municipal Code (NBMC) establishes the procedures and review criteria for amending the City's Comprehensive Plan and development regulations. Any amendments proposed by members of the public prior to October 15th of each year are to be docketed by the City, submitted to the Planning Commission for review and recommendation, considered by the City Council, and potentially set for a plan amendment schedule.

The City of North Bend completed a mandated periodic review and updated its Comprehensive Plan in 2015 and is required to complete its next mandated periodic review by December 31, 2024, and every ten years thereafter, pursuant to amended RCW 36.70A.130(5)(b). The broad, mandated periodic review is a significantly more intensive and wide-ranging update effort for the City and community than the optional annual docketing amendment process.

City staff continue to develop and implement the schedule, public participation plan, work items, review and engagement process, and proposed/required amendments relating to the 2024 periodic update of the Comprehensive Plan. The City-wide nature of the Comprehensive Plan periodic update due by December 31, 2024, requires the dedication of additional time and resources and necessitates an adjustment to the typical schedule for accepting privately initiated Comprehensive Plan annual amendments.

Suspension of the annual docketing and review process would focus staff resources on the City-wide periodic update effort. The acceptance of Comprehensive Plan amendment requests for docketing in 2024 is proposed to be suspended until the 2025 annual amendment cycle. Staff used the 2023 docketing process to solicit requests from the public for Comprehensive Plan amendments for the 2024 update process. These requests and the related annual cumulative review analysis will be incorporated into the periodic update comments and analysis for the Comprehensive Plan required by December 31, 2024. The general public will have additional opportunities to submit suggested areas of study as part of the public participation/public comment process for City consideration during the 2024 periodic comprehensive plan update.

# City Council Agenda Bill

Additionally, Staff will propose a future amendment to the Municipal Code to permanently suspend the docketing process during a required periodic update and the required mid-cycle review. This proposal will go to the Council after the completion of the 2024 Comprehensive Plan update so that a temporary suspension will not be needed in the future.

APPLICABLE BRAND GUIDELINES: Sustainable and Managed Growth

COMMITTEE REVIEW AND RECOMMENDATION: The Community and Economic Development Committee reviewed this item at their July 18, 2023 meeting and recommended approval on the Consent Agenda.

RECOMMENDED ACTION: **MOTION to approve AB23-087, a resolution suspending the annual Comprehensive Plan Docketing for 2024.**

## RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
August 1, 2023		

# RESOLUTION

**A RESOLUTION OF THE CITY OF NORTH BEND,  
WASHINGTON, SUSPENDING THE ANNUAL  
DOCKETING AND REVIEW OF PROPOSED  
COMPREHENSIVE PLAN AMENDMENTS IN 2024  
UNTIL AFTER COMPLETION OF THE NORTH BEND  
COMPREHENSIVE PLAN PERIODIC UPDATE**

**WHEREAS**, Washington State law requires that King County and incorporated cities within the County prepare comprehensive plans consistent with Revised Code of Washington (RCW) Chapter 36.70A and rules set by the Department of Commerce, Washington Administrative Code (WAC) Chapter 365-196; and

**WHEREAS**, under these laws and rules, comprehensive plans and development regulations are subject to ongoing review, including receiving suggestions from the public regarding proposed amendments to a comprehensive plan; and

**WHEREAS**, the Washington State Growth Management Act (GMA) states that updates, proposed amendments, or revisions of the comprehensive plan occur no more frequently than once per year, with certain exceptions; and

**WHEREAS**, RCW 36.70A.130(2)(b) requires proposed updates, amendments, or reviews to be simultaneous to ensure that cumulative impacts to a city's plan are addressed; and

**WHEREAS**, North Bend Municipal Code (NBMC) Chapter 20.08 establishes the procedures and review criteria to amend the City's Comprehensive Plan and development regulations each year; and

**WHEREAS**, amendments proposed by members of the public prior to October 15th of each year are to be docketed by the City, submitted to the Planning Commission for review and recommendation, considered by the City Council, and potentially set for a plan amendment schedule; and

**WHEREAS**, the City completed a mandated periodic review and updated its Comprehensive Plan in 2015 and is required to complete its next mandated periodic review by December 31, 2024, and every ten years thereafter, pursuant to RCW 36.70A.130(5)(b); and

**WHEREAS**, the broad, mandated periodic review is a significantly more intensive and wide-ranging update effort for the City and community than the optional annual docketing amendment process; and

**WHEREAS**, City staff continue to develop and implement the schedule, public participation plan, work items, review and engagement process, and proposed/required amendments relating to the 2024 periodic update of the North Bend Comprehensive Plan; and

**WHEREAS**, the City-wide nature of the Comprehensive Plan periodic update due by December 31, 2024, requires the dedication of additional time and resources and necessitates an adjustment to the typical schedule for accepting privately initiated comprehensive plan annual amendments;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Suspension of Annual Docketing and Review Process.** The acceptance of Comprehensive Plan amendment requests for the year 2024 shall be suspended until the 2025 annual amendment cycle. Pursuant to NBMC 20.08.040(D), docket applications for Comprehensive Plan amendments will be considered timely if received between January 1, 2024, and October 15, 2024 for the 2025 cycle. Approved requests related to the 2023 docket process will be incorporated into the periodic update comments and analysis for the North Bend Comprehensive Plan required by December 31, 2024. The public will have additional opportunities to provide public comment/public participation to suggest areas of study for City consideration during the 2024 periodic comprehensive plan update.

**PASSED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1<sup>ST</sup> DAY OF AUGUST, 2023.**

**CITY OF NORTH BEND:**

**APPROVED AS TO FORM:**

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**Rob McFarland, Mayor**

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**Lisa Marshall, City Attorney**

**ATTEST/AUTHENTICATED:**

Effective:

Posted:

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**Susie Oppedal, City Clerk**



# City Council Agenda Bill

SUBJECT:	Agenda Date: August 1, 2023	AB23-088
<b>Resolution Accepting Bids and Awarding Construction Contract for the Alm Way Bridge Removal Capital Project to All Terrain Excavating, LLC</b>	Department/Committee/Individual	
Cost Impact: \$118,981.32 NTE	Mayor Rob McFarland	
Fund Source: Capital Streets Project	City Administrator – David Miller	
Timeline: Immediate	City Attorney – Lisa Marshall	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Comm. & Economic Development – Rebecca Deming	
	Finance –	
	Public Works – Mark Rigos, P.E.	X
<b>Attachments:</b> Resolution, Bid Tabulation		

## SUMMARY STATEMENT:

During the past several years, as many City of North Bend (City) transportation capital projects have been completed, the Alm Way Bridge Removal Capital Project has been rising up the City's Transportation Improvement Plan's (TIP) priority list due to the deterioration of the bridge deck, abutments, piles, and pile caps. The bridge is in a state of disrepair. The intended project has been to remove this bridge and not replace this bridge. Approximately 10 years ago, City staff closed the bridge to vehicles using signage, ecology blocks and barricades. The bridge is a hazard to pedestrians walking around these barricades and needs to be removed. Plus, the Northwest Railway Museum has been requesting the City to resolve the bridge hazard so that their downstream trestle is better protected.

City staff began assembling the plans and specifications for this project last fall with consulting firm PH Consulting, who also assisted in the permitting process. Staff received the necessary permits for the bridge removal from Washington State Department of Fish and Wildlife and Army Corps of Engineers earlier this month.

Bids were due by 11:00 a.m. Wednesday July 19<sup>th</sup> and nine (9) bids were received. The bid results are attached and ranged from \$118,981.32 to \$185,905.00. The engineer's estimate was \$145,620.70.

The lowest bid came from All Terrain Excavating, LLC in the amount of \$118,981.32 including all applicable taxes. City staff have done the appropriate background checks on All Terrain Excavating, LLC and recommend award of this contract to All Terrain Excavating, LLC.

This project is funded through Capital Streets Project budget.

**APPLICABLE BRAND GUIDELINES:** Consistent delivery of quality basic services including transportation and traffic management.

**COMMITTEE REVIEW AND RECOMMENDATION:** The Transportation and Public Works Committee reviewed this item on July 25, 2023 and recommended approval and placement on the Consent Agenda.

**RECOMMENDED ACTION:** **MOTION to approve AB23-088, a resolution accepting bids and awarding the construction contract for the Alm Way Bridge Removal Capital Project to All Terrain Excavating, LLC.**

## RECORD OF COUNCIL ACTION

Meeting Date	Action	Vote
August 1, 2023		



# RESOLUTION

## **A RESOLUTION OF THE CITY OF NORTH BEND, WASHINGTON, ACCEPTING BIDS AND AWARDING CONSTRUCTION CONTRACT FOR THE ALM WAY BRIDGE REMOVAL PROJECT**

**WHEREAS**, City staff and the Transportation and Public Works Committee determined that the Alm Way Bridge Replacement project was a high priority project in the fall of 2022 due to pedestrian safety concerns related to the deteriorating bridge conditions; and

**WHEREAS**, the City Council has allocated funds in the 2023 budget for this project; and

**WHEREAS**, Work shall include, but is not limited to traffic control, removal of the entire bridge structure, including the pilings and piling caps, pulling back the embankments at a 3:1 slope from the creek to the road, and replanting the embankment areas; and

**WHEREAS**, the project is funded by Streets Capital Project funds; and

**WHEREAS**, bid documents were advertised and posted on Builders Exchange of Washington as required and the City accepted bids up until Wednesday July 19, 2023 at 11:00 a.m.; and

**WHEREAS**, the City received bids from nine (9) contractors with the lowest bid coming from All Terrain Excavating, LLC in the amount of \$118,981.32, including all applicable taxes;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND,  
WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1.** The construction bids for the Alm Way Bridge Removal Project are accepted.

**Section 2.** The construction contract for the Alm Way Bridge Removal Project is awarded

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to All Terrain Excavating, LLC, in the amount of \$118,981.32 including all applicable taxes, on a form to be approved by the City Attorney.

**PASSED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND,  
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1<sup>ST</sup> DAY OF  
AUGUST, 2023.**

**CITY OF NORTH BEND:**

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**Rob McFarland, Mayor**

**APPROVED AS TO FORM:**

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**Lisa Marshall, City Attorney**

**ATTEST/AUTHENTICATED:**

Effective:

Posted:

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**Susie Oppedal, City Clerk**

City of North Bend  
Aim Way Bridge Removal Project  
BID OPENING TIME: July 19, 2023 11:00 AM  
PROJECT ENGINEER: Tom Mohr, PE  
CONSULTING ENGINEER: PH Consulting

Prepared By: Tom MohrChecked By: Carrie Smith

Item No.	SCHEDULE OF BID ITEMS	Engineer's Estimate			Average of All Bids			All Terrain Excavating, LLC			Fury Site Works, Inc.			Maroni Construction, Inc.			East Slope Earthworks, LLC		
		Quantity	Unit	Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price	Contract Amount		
1. Minor Changes		1	CALC	\$5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00		
2. Roadway Surveying		1	LS	\$1,500.00	\$ 1,500.00	\$ 4,773.94	\$ 4,773.94	\$ 1,097.08	\$ 1,097.08	\$ 500.00	\$ 500.00	\$ 257.49	\$ 257.49	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00		
3. SPCC Plan		1	LS	\$500.00	\$ 500.00	\$ 13,069.51	\$ 13,069.51	\$ 7,956.00	\$ 7,956.00	\$ 600.00	\$ 600.00	\$ 14,166.46	\$ 14,166.46	\$ 18,000.00	\$ 18,000.00	\$ 6,294.00	\$ 6,294.00		
4. Mobilization, Cleanout, and Demobilization		1	LS	\$1,000.00	\$ 1,000.00	\$ 11,000.00	\$ 11,000.00	\$ 2,213.96	\$ 2,213.96	\$ 600.00	\$ 600.00	\$ 3,083.73	\$ 3,083.73	\$ 3,500.00	\$ 3,500.00	\$ 600.00	\$ 600.00		
5. Project, Temporary Traffic Control		1	LS	\$1,000.00	\$ 1,000.00	\$ 5,243.99	\$ 5,243.99	\$ 3,202.00	\$ 3,202.00	\$ 3,202.00	\$ 3,202.00	\$ 4,041.92	\$ 4,041.92	\$ 4,500.00	\$ 4,500.00	\$ 4,500.00	\$ 4,500.00		
6. Cleaning and Grading		1	LS	\$50,000.00	\$ 50,000.00	\$ 8,412.82	\$ 8,412.82	\$ 9,590.00	\$ 9,590.00	\$ 21,143.00	\$ 21,143.00	\$ 28,106.96	\$ 28,106.96	\$ 22,000.00	\$ 22,000.00	\$ 13,100.00	\$ 13,100.00		
7. Removal of Fish Hatchery Base, incl. Sawcutting		1	LS	\$50,000.00	\$ 50,000.00	\$ 24,058.33	\$ 24,058.33	\$ 34,292.70	\$ 34,292.70	\$ 80.00	\$ 80.00	\$ 43,200.00	\$ 43,200.00	\$ 72.00	\$ 72.00	\$ 38,880.00	\$ 38,880.00		
8. Removal of Structures and Obstructions		1	LS	\$50,000.00	\$ 50,000.00	\$ 63.51	\$ 63.51	\$ 2,679.30	\$ 2,679.30	\$ 115.50	\$ 115.50	\$ 2,310.00	\$ 2,310.00	\$ 83.69	\$ 83.69	\$ 1,673.86	\$ 1,673.86		
9. Roadway Excavation Incl. Haul		50	CY	\$40.00	\$ 2,000.00	\$ 1,500.00	\$ 1,500.00	\$ 150.13	\$ 150.13	\$ 120.00	\$ 120.00	\$ 1,680.00	\$ 1,680.00	\$ 100.00	\$ 100.00	\$ 2,000.00	\$ 2,000.00		
10. 3x Tilled 6' Deep (Floodplain Planting)		20	CY	\$75.00	\$ 1,500.00	\$ 1,050.00	\$ 1,050.00	\$ 2,101.84	\$ 2,101.84	\$ 120.00	\$ 120.00	\$ 1,680.00	\$ 1,680.00	\$ 83.69	\$ 83.69	\$ 1,171.66	\$ 1,171.66		
11. 3x Tilled 9' Deep (Upland Planting)		14	CY	\$75.00	\$ 1,050.00	\$ 1,050.00	\$ 1,050.00	\$ 1,050.00	\$ 1,050.00	\$ 1,050.00	\$ 1,050.00	\$ 1,050.00	\$ 1,050.00	\$ 1,050.00	\$ 1,050.00	\$ 1,050.00			
12. Jute Matting		358.2	SF	\$0.20	\$ 71.62	\$ 0.58	\$ 0.58	\$ 7,080.54	\$ 7,080.54	\$ 0.58	\$ 0.58	\$ 2,075.99	\$ 2,075.99	\$ 0.78	\$ 0.78	\$ 2,393.18	\$ 2,393.18		
13. Seed Mix		358.1	SF	\$0.50	\$ 179.50	\$ 0.95	\$ 0.95	\$ 3,401.95	\$ 3,401.95	\$ 0.14	\$ 0.14	\$ 501.34	\$ 501.34	\$ 1.29	\$ 1.29	\$ 4,619.49	\$ 4,619.49		
14. Lives Stakes (Floodplain Planting)		98	EA	\$1.50	\$ 147.00	\$ 12.36	\$ 12.36	\$ 1,211.44	\$ 1,211.44	\$ 500.00	\$ 500.00	\$ 1,281.26	\$ 1,281.26	\$ 10.00	\$ 10.00	\$ 980.00	\$ 980.00		
15. Containers (Upland Planting)		66	EA	\$4.50	\$ 297.00	\$ 69.72	\$ 69.72	\$ 4,601.63	\$ 4,601.63	\$ 212.00	\$ 212.00	\$ 13,992.00	\$ 13,992.00	\$ 48.28	\$ 48.28	\$ 3,186.48	\$ 3,186.48		
16. Mulch Rings		8	CY	\$66.00	\$ 520.00	\$ 104.23	\$ 104.23	\$ 833.81	\$ 833.81	\$ 80.00	\$ 80.00	\$ 640.00	\$ 640.00	\$ 75.00	\$ 75.00	\$ 96.56	\$ 96.56		
17. Perennial Sodding		1	LS	\$8,000.00	\$ 9,000.00	\$ 4,556.14	\$ 4,556.14	\$ 1,000.00	\$ 1,000.00	\$ 100.00	\$ 100.00	\$ 7,006.82	\$ 7,006.82	\$ 3,200.00	\$ 3,200.00	\$ 5,030.00	\$ 5,030.00		
18. Temporary Stream Diversion (if necessary)		1	LS	\$25,000.00	\$ 25,000.00	\$ 1,906.55	\$ 1,906.55	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 28.79	\$ 28.79	\$ 2,500.00	\$ 2,500.00	\$ 910.50	\$ 910.50		
19. Fish Excavation Assistance		1	FA	\$3,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00		
	Bid Schedule Total	\$ 145,620.70		\$ 131,515.43		\$ 50,000		\$ 118,981.32		\$ 50,000		\$ 122,607.68		\$ 123,874.10		\$ 129,298.15			

Total on bid sheet was \$5,147.69

5 Western Engineering Constructors, Inc.			6 Sascon, LLC			7 GEC NW, Inc.			8 New X, Inc.			9 Northwest Cascade, Inc.		
Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price
\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
\$ 3,250.00	\$ 3,250.00	\$ 3,500.00	\$ 3,500.00	\$ 3,500.00	\$ 3,500.00	\$ 8,000.00	\$ 8,000.00	\$ 3,450.00	\$ 3,450.00	\$ 1,150.00	\$ 1,150.00	\$ 300.00	\$ 300.00	\$ 5,000.00
\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 800.00	\$ 800.00	\$ 4,500.00	\$ 4,500.00	\$ 22,680.00	\$ 22,680.00	\$ 28,000.00	\$ 28,000.00	\$ 300.00	\$ 300.00	\$ 300.00
\$ 20,000.00	\$ 20,000.00	\$ 12,000.00	\$ 12,000.00	\$ 31,000.00	\$ 31,000.00	\$ 34,000.00	\$ 34,000.00	\$ 2,300.00	\$ 2,300.00	\$ 1,350.00	\$ 1,350.00	\$ 2,300.00	\$ 2,300.00	\$ 1,350.00
\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 3,500.00	\$ 3,500.00	\$ 7,295.00	\$ 7,295.00	\$ 14,536.00	\$ 14,536.00	\$ 60.95	\$ 60.95	\$ 32,913.00	\$ 32,913.00	\$ 1,000.00
\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 8,500.00	\$ 8,500.00	\$ 3,800.00	\$ 3,800.00	\$ 5,156.00	\$ 5,156.00	\$ 1,000.00	\$ 1,000.00	\$ 36,000.00	\$ 36,000.00	\$ 3,186.00
\$ 15,000.00	\$ 15,000.00	\$ 9,700.00	\$ 9,700.00	\$ 36,000.00	\$ 36,000.00	\$ 22,050.00	\$ 22,050.00	\$ 57,500.00	\$ 57,500.00	\$ 59.00	\$ 59.00	\$ 2,300.00	\$ 2,300.00	\$ 1,320.00
\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00	\$ 65.00	\$ 65.00	\$ 38,100.00	\$ 38,100.00	\$ 42,120.00	\$ 42,120.00	\$ 140.00	\$ 140.00	\$ 140.00	\$ 140.00	\$ 1,320.00
\$ 48.00	\$ 48.00	\$ 25,920.00	\$ 25,920.00	\$ 140.00	\$ 140.00	\$ 2,800.00	\$ 2,800.00	\$ 201.00	\$ 201.00	\$ 4,020.00	\$ 4,020.00	\$ 130.00	\$ 130.00	\$ 1,320.00
\$ 216.00	\$ 216.00	\$ 3,668.00	\$ 3,668.00	\$ 150.00	\$ 150.00	\$ 2,000.00	\$ 2,000.00	\$ 307.00	\$ 307.00	\$ 4,298.00	\$ 4,298.00	\$ 130.00	\$ 130.00	\$ 1,320.00
\$ 262.00	\$ 262.00	\$ 3,668.00	\$ 3,668.00	\$ 4.00	\$ 4.00	\$ 14,322.00	\$ 14,322.00	\$ 1.05	\$ 1.05	\$ 3,760.05	\$ 3,760.05	\$ 1.15	\$ 1.15	\$ 1,320.00
\$ 1.30	\$ 1.30	\$ 4,655.30	\$ 4,655.30	\$ 1.00	\$ 1.00	\$ 3,581.00	\$ 3,581.00	\$ 0.95	\$ 0.95	\$ 3,401.95	\$ 3,401.95	\$ 1.44	\$ 1.44	\$ 1,320.00
\$ 15.00	\$ 15.00	\$ 1,470.00	\$ 1,470.00	\$ 9.00	\$ 9.00	\$ 882.00	\$ 882.00	\$ 21.00	\$ 21.00	\$ 2,058.00	\$ 2,058.00	\$ 11.50	\$ 11.50	\$ 1,320.00
\$ 35.00	\$ 35.00	\$ 2,310.00	\$ 2,310.00	\$ 20.00	\$ 20.00	\$ 1,320.00	\$ 1,320.00	\$ 33.00	\$ 33.00	\$ 2,178.00	\$ 2,178.00	\$ 23.00	\$ 23.00	\$ 1,320.00
\$ 80.00	\$ 80.00	\$ 64.00	\$ 64.00	\$ 180.00	\$ 180.00	\$ 1,440.00	\$ 1,440.00	\$ 289.00	\$ 289.00	\$ 2,382.00	\$ 2,382.00	\$ 145.00	\$ 145.00	\$ 1,320.00
\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 7,000.00	\$ 7,000.00	\$ 1,820.00	\$ 1,820.00	\$ 1.820.00	\$ 1.820.00	\$ 4,738.00	\$ 4,738.00	\$ 750.00	\$ 750.00	\$ 1,320.00
\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 3,000.00	\$ 3,000.00	\$ 605.00	\$ 605.00	\$ 5,000.00	\$ 5,000.00	\$ 5,750.00	\$ 5,750.00	\$ 3,000.00	\$ 3,000.00	\$ 1,320.00
\$ 144,814.30	\$ 144,814.30	\$ 149,547.00	\$ 149,547.00	\$ 156,948.00	\$ 156,948.00	\$ 167,908.79	\$ 167,908.79	\$ 187,905.00	\$ 187,905.00	\$ 187,905.00	\$ 187,905.00	\$ 187,905.00	\$ 187,905.00	\$ 187,905.00



## City Council Agenda Bill

SUBJECT:	Agenda Date: August 1, 2023	AB23-089
<b>Resolution Accepting Bids and Awarding Construction Contract for the North Bend Bridge 1135-3 Scour Project to Sascon, LLC</b>	Department/Committee/Individual	
Cost Impact: \$391,695 NTE	Mayor Rob McFarland	
Fund Source: Capital Streets Project	City Administrator – David Miller	
Timeline: Immediate	City Attorney – Lisa Marshall	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Comm. & Economic Development – Rebecca Deming	
	Finance –	
	Public Works – Mark Rigos, P.E.	X
<b>Attachments:</b> Resolution, Bid Tabulation		

### SUMMARY STATEMENT:

During the past 6-8 years, City staff have been monitoring a scour problem at the base of pier 6 on North Bend Bridge 1135-3. The City owns, operates and maintains nearly 10 bridges. This bridge is located along North Bend Way above the South Fork of the Snoqualmie River. King County performs annual bridge inspections for the City and recommended the City address the scour issue at pier 6 with the last inspection done in 2022 before it got any worse.

City staff begin assembling the plans and specifications for this project last fall with consulting firm Parametrix who also assisted in the permitting process. Staff received the necessary permits from Washington Department of Fish and Wildlife and Army Corps of Engineers this month.

Bids were due by 2:00 p.m. Wednesday July 19<sup>th</sup> and two (2) bids were received. The bid results are attached and ranged from \$391,695 to \$532,720. The engineer's estimate was \$367,343 for the project.

The lowest bid came from Sascon, LLC in the amount of \$391,695 including all applicable taxes. City staff have done the appropriate background checks on Sascon, LLC and recommend award of this contract to Sascon, LLC even though it is approximately 6% higher than the engineers estimate due to the potential for this problem to worsen and cause much more costly issues to the bridge structure.

This project can be funded through Capital Streets Project fund.

**APPLICABLE BRAND GUIDELINES:** Consistent delivery of quality basic services including transportation and traffic management.

**COMMITTEE REVIEW AND RECOMMENDATION:** The Transportation and Public Works Committee reviewed this item on July 25, 2023 and recommended approval and placement on the Consent Agenda.

**RECOMMENDED ACTION:** **MOTION to approve AB23-089, a resolution accepting bids and awarding the construction contract for the North Bend Bridge 1135-3 Scour Project to Sascon, LLC.**

### RECORD OF COUNCIL ACTION

Meeting Date	Action	Vote
August 1, 2023		



## RESOLUTION

### **A RESOLUTION OF THE CITY OF NORTH BEND, WASHINGTON, ACCEPTING BIDS AND AWARDING CONSTRUCTION CONTRACT FOR THE NORTH BEND BRIDGE 1135-3 SCOUR PROJECT**

**WHEREAS**, City staff determined that the North Bend Bridge 1135-3 Scour Project was a high priority project in 2022 after King County inspectors recommended the scour issue at pier 6 be addressed soon before it got worse; and

**WHEREAS**, the City Council has allocated funds in the 2023 budget for this project; and

**WHEREAS**, work shall include, but is not limited to, constructing temporary access roads to bridge Piers 6 and 8, constructing a temporary cofferdam and removing the existing timber cofferdam at Pier 6, constructing scour remediation at Pier 6, constructing scour remediation at Pier 8, constructing a culvert dispersion apron, restoring construction staging areas and access roads, and other work as required to complete the project; and

**WHEREAS**, the project is funded by Streets Capital Project funds; and

**WHEREAS**, bid documents were advertised and posted on Builders Exchange of Washington as required and the City accepted bids up until Wednesday July 19, 2023 at 2:00 p.m.; and

**WHEREAS**, the City received bids from two (2) contractors with the lowest bid coming from Sascon, LLC in the amount of \$391,695, including all applicable taxes;

### **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1.** The construction bids for the North Bend Bridge 1135-3 Scour Project are accepted.

**Section 2.** The construction contract for the North Bend Bridge 1135-3 Scour Project is awarded to Sascon, LLC, in the amount of \$391,695 including all applicable taxes, on a form to be approved by the City Attorney.

**PASSED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND,  
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1<sup>ST</sup> DAY OF  
AUGUST, 2023.**

**CITY OF NORTH BEND:**

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**Rob McFarland, Mayor**

**APPROVED AS TO FORM:**

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**Lisa Marshall, City Attorney**

**ATTEST/AUTHENTICATED:**

Effective:

Posted:

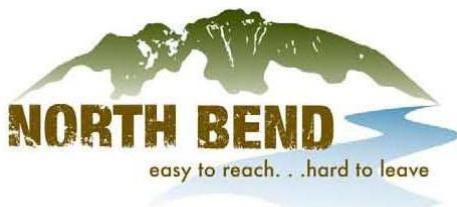
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**Susie Oppedal, City Clerk**

City of North Bend  
North Bend, OR 97450  
Scour Project  
BID OPENING TIME: July 19, 2023 2:00 PM  
PROJECT ENGINEER: Tom Mohr, PE  
CONSULTING ENGINEER: Parametric  
Prepared By: Tom Mohr  
Checked By: Carrie Smith

Item No.		Schedule of Bid Items		Engineer's Estimate				Average of All Bids				Sascon, LLC		Mike McClung Construction Co.	
				Quantity	Unit	Unit Price	Contract Amount	Unit Price	Contract Amount	Unit Price	Contract Amount				
1	Minor Change	1	CALC	\$5,000.00	\$	5,000.00	\$	5,000.00	\$	5,000.00	\$	5,000.00	\$	5,000.00	\$
2	Record Drawings (Min. \$500)	1	LS	\$500.00	\$	500.00	\$	500.00	\$	500.00	\$	500.00	\$	500.00	\$
3	Mobilization	1	LS	\$3,985.00	\$	33,895.00	\$	43,000.00	\$	33,000.00	\$	53,000.00	\$	53,000.00	\$
4	Flaggers	40	HR	\$10.00	\$	440.00	\$	97.50	\$	3,900.00	\$	75.00	\$	120.00	\$
5	Cleaning And Grubbing	1	LS	\$9,000.00	\$	9,000.00	\$	55,000.00	\$	55,000.00	\$	60,000.00	\$	50,000.00	\$
6	Channel Excavation (incl. Haul)	606	CY	\$120.00	\$	72,720.00	\$	9,000.00	\$	54,540.00	\$	80.00	\$	48,380.00	\$
7	Material Transfer From Pier 6 To Pier 8	1	LS	\$20,000.00	\$	20,000.00	\$	27,250.00	\$	45,000.00	\$	27,250.00	\$	100.00	\$
8	Construction Geotextile for Permanent Erosion Control	200	SY	\$15.00	\$	3,000.00	\$	10.63	\$	2,125.00	\$	11.25	\$	2,250.00	\$
9	Won Access	1	LS	\$80,000.00	\$	90,000.00	\$	68,750.00	\$	68,750.00	\$	35,000.00	\$	102,500.00	\$
10	Silt Fence	500	LF	\$15.00	\$	7,500.00	\$	11.00	\$	5,500.00	\$	12.00	\$	6,000.00	\$
11	Check Dam	20	LF	\$40.00	\$	800.00	\$	29.50	\$	590.00	\$	9.00	\$	180.00	\$
12	Stabilized Construction Entrance	50	SY	\$50.00	\$	2,500.00	\$	100.00	\$	5,000.00	\$	125.00	\$	2,625.00	\$
13	Seedling, Fertilizing and Mulching	0.23	AC	\$8,000.00	\$	2,024.00	\$	14,500.00	\$	3,353.00	\$	14,000.00	\$	3,220.00	\$
14	Fire Control	0.08	AC	\$15,000.00	\$	2,860.00	\$	42,500.00	\$	3,400.00	\$	50,000.00	\$	4,000.00	\$
15	PSFE Acid Neutralization (72' Ht. #1 Cont.)	32	EA	\$16.00	\$	516.00	\$	30.00	\$	960.00	\$	20.00	\$	640.00	\$
16	PSFE Cosmetic servicea (72' Ht. #2 Cont.)	32	EA	\$16.00	\$	516.00	\$	30.00	\$	960.00	\$	20.00	\$	640.00	\$
17	PSFE: Osmunda cinnamomea (12' Ht. #1 Cont.)	24	EA	\$18.00	\$	432.00	\$	30.00	\$	720.00	\$	20.00	\$	480.00	\$
18	PSFE: Osmunda cinnamomea (12' Ht. #2 Cont.)	16	EA	\$18.00	\$	288.00	\$	30.00	\$	480.00	\$	20.00	\$	320.00	\$
19	PSFE: Physocarpus caeruleo-roseus (12' Ht. #1 Cont.)	24	EA	\$18.00	\$	432.00	\$	30.00	\$	720.00	\$	20.00	\$	480.00	\$
20	PSFE: Symphoricarpos albus (72' Ht. #1 Cont.)	40	EA	\$18.00	\$	720.00	\$	30.00	\$	1,200.00	\$	20.00	\$	800.00	\$
21	PSFE: Polystachya multiflora (72' Ht. #1 Cont.)	90	EA	\$16.00	\$	1,620.00	\$	27.50	\$	2,475.00	\$	15.00	\$	1,355.00	\$
22	Temporary Shoreline Dredging	22	CY	\$75,000.00	\$	110,000.00	\$	197.50	\$	100,000.00	\$	10,000.00	\$	120,000.00	\$
23	Rock for Erosion and Seour Protection Class C	319	CY	\$100.00	\$	31,900.00	\$	31,900.00	\$	63,002.50	\$	95.00	\$	30,305.00	\$
24	Baric or Wood Chip Mulch	0.08	AC	\$27,000.00	\$	2,160.00	\$	47,500.00	\$	3,800.00	\$	4,800.00	\$	35,000.00	\$
														\$482,207.50	\$
														\$3,048.00	\$
														\$485,255.50	\$





## City Council Agenda Bill

SUBJECT:	Agenda Date: August 1, 2023	AB23-090
<b>Motion Authorizing Amendment No. 4 to Contract with Parametrix for the North Bend Bridge # 1135-3 Scour Project</b>	Department/Committee/Individual Mayor Rob McFarland City Administrator – David Miller City Attorney – Lisa Marshall City Clerk – Susie Oppedal Administrative Services – Lisa Escobar Comm & Econ Development – Rebecca Deming Finance – Public Works – Mark Rigos, P.E.	
Cost Impact: \$62,600.97		
Fund Source: Capital Streets Project		X
Timeline: Immediate		
<b>Attachments:</b> Scope of Work & Fee		
<b>SUMMARY STATEMENT:</b>		
During the past 6-8 years, City of North Bend (City) staff have been monitoring a scour problem at the base of pier 6 for North Bend Bridge 1135-3. This bridge is located along North Bend Way over the South Fork of the Snoqualmie River. King County Department of Transportation performs annual bridge inspections for the City and recommended the City address the scour issue at pier 6 during the last inspection done in 2022 before its condition worsens and potentially causes damage to the bridge structure itself. Staff recently received bids for this work and plans to award the construction contract at the August 1, 2023 City Council meeting.		
Attached is the work scope and fee from Parametrix to provide construction management and inspection services. This Amendment No. 4 to the original contract is in the amount of \$62,600.97. The original contract and amendments were for design and permitting services that Parametrix provided for this project. With our Public Works inspector currently out due to injury and the need for full time inspection on this project, City staff need technical inspection assistance to ensure this project is completed per plan.		
Parametrix's construction services include construction management support such as tracking working days, taking detailed pre-construction photos, meeting with the contractors, alerting City staff of any concerns, evaluating any change orders, ensuring plans are being followed, tracking budgets, conducting daily inspections, completing inspection reports, and performing project closeout services such as preparing the punch-list and post site photos.		
City staff have selected Parametrix to perform this work based on previous experience with the firm and recommend approval of this construction management and inspection services amendment.		
<b>APPLICABLE BRAND GUIDELINES:</b> Consistent delivery of quality basic services including transportation and traffic management.		
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b> This item was discussed at the July 25, 2023 Transportation and Public Works Committee meeting and was recommended for approval and placement on the Consent Agenda.		
<b>RECOMMENDED ACTION:</b> <b>MOTION to approve AB23-090, authorizing Amendment No. 4 to the contract with Parametrix for the North Bend Bridge 1135-3 Scour Capital Project, in a form and content approved by the City Attorney, in an amount not to exceed \$62,600.97.</b>		

## City Council Agenda Bill

RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
August 1, 2023		

## SCOPE OF WORK

City of North Bend  
Contract Number: 2021-23

North Bend Bridge 1135-3 – Bridge Scour Design

**Amendment 3**

### INTRODUCTION

King County determined that there is a scour concern for the City of North Bend Bridge #1135-3 which is located on West North Bend Way over the South Fork Snoqualmie River. The bridge foundations consist of spread footings and is scour critical. The coffer dams around the footings are also deteriorating.

The City of North Bend (City) requested Parametrix (Consultant) to develop a conceptual scour repair mitigation assessment. This assessment was completed on August 23, 2021 and submitted to the City for review. The City requested that the Consultant finalize the assessment report with a formal recommendation measure and develop the PS&E for contract AD and award for the recommended mitigation measure.

The Consultant will develop a preliminary, final, and bid ready design for a scour countermeasure installation for Pier 6 of this structure. This countermeasure includes the placement of graded broken rock (rip rap) placed approximately 6 feet below riverbed on a geotextile layer and overlaid with soil/river material. The deliverables will include construction access to the site and proposed construction sequencing.

This design work will not begin until January 2022.

**Supplemental work – Provide construction inspection and documentation support. This work will be provided by Akana as a subcontractor to Parametrix. It is expected that this work will be accomplished within 40 working days followed by two weeks of project construction closeout.**

### PROJECT ASSUMPTIONS

This scope of work description is based on the following project wide assumptions (other assumptions are located within the tasks as needed):

- Existing soil information will be used, no new geotechnical investigations will be conducted.
- No additional hydraulic analysis will be needed to support this design.
- Stakeholder involvement will be limited to permitting agencies and King County.
- Construction access will be within a critical area and temporary impacts are assumed. Restoration will be necessary. All permits will include impacts and mitigation.
- The project lies in a Special Flood Hazard Area and assumed to require a City Floodplain Development Permit for the temporary access for the construction work at the pier.

## SCOPE OF WORK

### Task 100 Project Management and Coordination

#### 100.10 Progress Reports and Invoicing

Prepare and submit monthly formal progress reports and weekly informal e-mail progress check-ins. The formal monthly progress report will describe the work underway or completed in the subject month and the status of individual tasks. The weekly informal progress report will provide weekly progress as well as a one week look ahead update. The monthly progress reports will be included with the monthly invoices.

#### 100.20 Project Coordination

Coordination of efforts include conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the team and key project stakeholders. This also includes the project kick off meeting, weekly team meetings, and biweekly City coordination meetings as needed. In addition, the Consultant project manager will provide an informal weekly progress report, via e-mail, to the City project manager.

#### Deliverables:

1. Monthly Progress Reports and Invoices.
2. Weekly informal progress check-ins (e-mail).
3. Meeting Agendas and Notes for the kick-off and biweekly City coordination meetings.

### Task 200 Topographic Survey and Mapping and Critical Areas Review

#### Task 200.10 Topographic Survey and Mapping

The Consultant shall provide topographic survey and mapping to assist in the design of the construction access to river level and also pick up sensitive area/wetland flagging provided by Wetland Resources. The specific limits of the survey will be provided to the survey team after a formal site visit and sensitive area assessment. The survey will mostly be located on the north and west side of the bridge as the south and west side area has already been mapped. It is estimated that the amount of survey is less than one acre and survey should take no more than two days for field work.

The survey will be expanded to the east bank, both on the north and south sides of the bridge. This survey is less than one acre and will take up to two days of field work. The survey will include overall ground topog including, both culvert relief pipe openings (inlet and outlet invert elevations), culvert sizes, at least two central channel points downstream of each culvert, and the full levee wall in this location.

#### Deliverables:

1. 3D Survey mapping in AutoCAD, version 2020 by Axis Survey and Mapping

#### Task 200.20 Critical Area Review

The Consultant shall provide a wetland and stream delineation review to support potential construction access location determination. The actual limits for the site review will be determined at a formal site visit for potential

construction access points on the west approach end of the bridge. The area of review is estimated at less than one acre. The Consultant will complete wetland and stream characterization and ratings for wetlands identified during the site review per City code. The Consultant shall also complete a floodplain habitat assessment if the project requires a Floodplain Development Permit. A critical area report will also be provided as required by the permit actions.

Deliverables:

1. Wetland and stream sketch map (electronic pdf)
2. Critical Areas Report (electronic pdf)
3. North Bend Habitat Assessment Worksheet located here  
[https://northbendwa.gov/DocumentCenter/View/8277/Forms---Habitat-Assessment-Worksheet\\_updated-9-2-2021](https://northbendwa.gov/DocumentCenter/View/8277/Forms---Habitat-Assessment-Worksheet_updated-9-2-2021)

### Task 200.30 Cultural Resource Assessment

The project requires approval by the Corps of Engineers, which triggers the requirement to comply with Section 106 of the National Historic Preservation Act (NHPA). The age of the existing structure requires the evaluation for eligibility for listing pursuant the NHPA. The Cultural Resources consultant will conduct desktop evaluation and conduct a brief field visit to document the existing bridge. Findings will be documented on a historic property inventory form, which will be submitted to the Washington Department of Archeology and Historic Preservation. Because the project will not involve work outside of previously disturbed areas, no archeological survey is assumed to be required for the project. If the design dictates work outside of previously disturbed areas or if a survey is required by regulatory agencies this work be completed under a supplemental agreement. The subconsultant will prepare a technical memorandum summarizing the findings of the desktop review and field assessment. The memorandum will be submitted with the Corps of Engineers permit submittal to support the required coordination by the Corps under Section 106 of the NHPA.

Deliverables:

1. Section 106 Resources Technical Memorandum (electronic pdf)
2. Historic Property Inventory Form

### Task 300 Design and Permitting Needs

#### Task 300.20 Permitting Needs

Based on the permit matrix developed as part of the scour assessment, provide the necessary SEPA documentation and permitting necessary to construction the project as follows:

- Prepare a Joint Aquatic Resource Project Application (JARPA) for the proposed project for submittal for federal and state environmental permits.
- Prepare a Biological Evaluation for the project following the Corps of Engineers template and guidelines. For the purpose of developing a level of effort, the consultant assumes that the level of documentation would be a no effect determination per Corps of Engineers guidelines
- Prepare JARPA figures following Corps JARPA figure guidelines
- Prepare Coastal Zone Management Consistency Determination submittal
- Revise JARPA based on 100% design information to support WDFW HPA on-line submittal. Submit HPA application materials to WDFW.

- Prepare a SEPA Environmental Checklist per the City of North Bend Municipal Code (NBMC) 14.04.070. The consultant will prepare the Environmental Checklist for review and approval by the City so that they may make a threshold determination for the project.
- Prepare a City of North Bend Land Use Application Form assemble permit submittal package.
- Prepare a City of North Bend Shoreline Management Act Application Form assemble permit submittal package.
- Prepare a City of North Bend Building and/or Clearing Permit Application Form(s) and assemble permit submittal package.
- Prepare a City of North Bend Floodplain Development Permit Application Form and assemble permit submittal package.

Conduct ongoing permit coordination and support including responding to federal and state agency comments on submittals and coordinate City and consultant team response. Respond to City planning department comments on permit materials. Revise permit materials per City planning department comments.

#### Assumptions

- The City will be the SEPA lead agency.
- No additional technical analysis or special studies will be required to support a City review of the SEPA beyond those identified in this scope of work or previously prepared for prior phases of work.
- The project will not utilize state or federal funding for construction, which would trigger additional environmental documentation.
- The project will not utilize state or federal funding for construction, which would trigger additional environmental documentation.
- The project will qualify for a Corps of Engineers Nationwide Permit.
- The current Corps Nationwide Permit program expires in March 2022 and may be updated prior to that date. The Corps will issue new Nationwide Permits prior to construction. The project will be grandfathered under the current permit program, or the newly issued Nationwide Permits will have similar requirements and conditions as the current program.
- A Corps of Engineers Individual Permit will not be required.
- A Coast Guard permit will not be required.
- A FEMA CLOMR or LOMR will not be required.
- The scope of work anticipates up to 2 agency site visits and anticipates combined attendance at the site visits.
- The ESA Section 7 consultation can be completed based on existing site-specific information. No additional field survey or investigation will be required.
- The project can be designed to meet ESA Section 7 guidelines for no effect projects.
- The project can be designed to meet state and federal guidelines for outfalls, bank armoring, water quality, and fish screens and fish exclusion during construction.
- The scope of work does not include the preparation of a final SWPPP. A final SWPPP will be contractor-provided.
- The City will not require additional materials not identified in this scope of work for the Shoreline Management Act Application.
- The project will not require a Shoreline Management Act Conditional Use Permit or Variance.
- The project will not require issuance of a critical area exemption exception or variance.
- The project will not trigger the need for compensatory floodplain storage or a zero-rise analysis.
- The project will not require modeling to demonstrate compliance with floodplain development requirements.

- The project will not require completion of a flood hazard certification.
- No evaluation of traffic impacts will be required.
- The City will be responsible for all permit application fees and third-party review fees.
- The City will be responsible for the publication of all notices and announcements.
- The consultant will provide ongoing support to the City during the permit review and approval process up to the level of effort identified in project budget. Level of effort for Coordination/Permit Support assumes 4 hours each month for 9 months.
- The City will authorize the Consultant as its agent for federal and state permit applications and submittals.
- The City will be responsible for submittal and tracking of City-issued permits and approvals.
- This task budget includes preparation and revisions of permit applications. Revisions to plans, technical reports, or other permit submittals are included under their associates task budgets.

Deliverables:

1. Corps/Ecology JARPA form and figures
2. Biological Evaluation (no effect)
3. CZM Consistency Determination Submittal
4. WDFW JARPA/on-line HPA submittal materials
5. SEPA Environmental Checklist
6. Shoreline Substantial Development Permit Application and associated materials
7. Land Use Permit Application and associated materials
8. Building /Clearing Permit Application and associated materials
9. Floodplain Development Permit Application and associated materials

The Consultant shall prepare bridge scour remediation construction Plans, Specifications, and Estimate for the Preliminary and Final submittals.

### Task 300.40 Preliminary Design (30%)

Prepare construction Plans and Estimate at the 30% design level for the selected scour countermeasure to provide the City an opportunity to review, comment, and provide direction on work. The 30% design effort will also be the basis for the required project environmental permits (City, State, and federal). The design team will support the permit team in the permit application process.

Additional scour mitigation for Pier 8 and channel flow design for the two levee relief culverts south of the east bridge approach will be developed as part of the preliminary design. One, cost effective measure, will be provided to reduce, or eliminate high energy water channeling of the levee relief drainage to the South Fork Snoqualmie River. This design will also include repairing/filling in the existing voids at Pier 8. Additional temporary construction access will be included for this added work and documented in the Construction Sequencing Technical Memorandum. Up to three additional preliminary design sheets will be included for the preferred relief drainage mitigation and scour repair at pier 8.

The consultant shall include a technical memorandum describing the construction access and sequencing.

Deliverables:

1. Construction Sequencing Technical Memorandum (electronic pdf)
2. Preliminary (30%) Plans (electronic pdf)
  - a. The proposed plan sheets to be delivered for this task are listed as follows:

i.	Cover with Vicinity Map	1 Sheet
ii.	Bridge Plan and Profile	2 Sheets
iii.	Drainage channel and details	2 Sheets
iv.	Construction Sequencing	1 Sheet
v.	Typical Details	1 Sheet
3.	30% Engineers Construction Cost Estimate	

### Task 300.50 Final Design

The consultant shall update the Preliminary design submittal to reflect review comments and changes from the review by the City and bring the design to a 90% level for construction permit applications. The 90% plans shall include a Stormwater Pollution Prevention Plan (SWPPP). The City Building permit submittal checklist is located at <https://northbendwa.gov/DocumentCenter/View/5903/commercial-and-mulit-family-checklist?bidId=>. The City Shoreline Substantial Development Conditional Use Permit form is located at <https://northbendwa.gov/ArchiveCenter/ViewFile/Item/1395>. It is assumed that this project will be exempt from this permit.

The consultant shall continue developing the 100% PS&E for formal City review while the permit reviews are in progress. Based on the 100% PS&E review, the consultant shall resolve issues and update the Plans, Specifications, and Estimate to a Final design suitable for advertisement and bidding.

The City will provide the bid documents section of the contract provisions. The consultant shall provide special provisions needed for construction and assist in assembling the full bid document set for advertisement.

The proposed plan sheets to be delivered for this task are the same as the Preliminary Plan, plus added details, construction access, TESC, and construction sequencing.

#### Deliverables:

1. 90% Permit Set (Plans only), including a SWPPP (electronic pdf)
2. 100% Design Set and Bid Ready set packages (electronic pdf), including:
  - a. Plans
  - b. Cost Estimate
  - c. Special Provisions

The Consultant will attend one pre-bid meeting. Meeting arrangements and location to be provided by the City.

The Consultant will prepare written responses to bidder requests for information and bid addenda as requested by the City.

The Consultant will review bidder proposals and prepare summary of comparison between value of bid items and engineer's estimate as requested by the City.

***Task 400 was use for internal subconsultant tracking.***

### Task 500 Construction Support Services

Akana (Construction Management Consultant) will provide professional Construction Management (CM) Services for Parametrix (Prime Consultant). These services will include field observation, documentation, and reporting as

required during the Project construction period. All services will be provided in accordance with the Washington State Department of Transportation's (WSDOT) Local Agency Guidelines and Construction Manual.

The CM Consultant will be providing Jeff Faunce, and an Inspector and subconsultant safety JSA (Tara Burnham) on a Part time basis.

Assumptions:

1. This scope does not include construction support services during non-working days. A Non-Working Day is defined in the WSDOT Standard Specifications as "...unworkable because of weather or conditions caused by the weather that prevents satisfactory and timely performance of the work shown on the critical path of the Contractor's approved schedule." If the contract amount under this agreement is exceeded, the Consultant may request a supplement to cover the costs incurred from work completed on Non-Working Days.
  - a. Construction will take no more than 40 working days.
  - b. The Contractor will be responsible for environmental documentation requirements.
  - c. No Overtime has been estimated.
  - d. Assume the contractor will work from 8:00 am to 5:00pm, working a 40-hour week, 8 hours a day, 1 shift.
2. No office space for the CM consultant will be provided.
3. Consultant will provide vehicle and fuel, cell phone, standard safety wear and laptop computer.
4. Mileage for the PM/RE and inspector is included in the fee estimate and includes anticipated on-site daily mileage.

### Task 500.10 Pre-Construction Services

The Construction Management Consultant will:

- Review bid documents to become familiar with the project.
- Take pre-construction photographs and burn them to a disc to include in hard-copy files.
- Conduct a site visit to become acquainted with the project site.
- Prepare hard-copy and electronic files for project documentation.

Deliverables:

1. Disc of pre-construction photographs
2. CM Consultant monthly progress invoices

### Task 500.20 Construction Management Administration

The Construction Management Consultant will:

- Prepare up to (8) Weekly Statement of Working Day reports.
- Monitor issues that may eventually have impacts on the project budget or schedule. These issues will be reported to the CM and documented in daily reports.
- Participate in preparing Change Orders by supplying information to the prime for change order development.

**Deliverables:**

1. Documentation review and inspector support

**Task 500.30 Construction Services**

The Construction Management (CM) Consultant will provide part-time Inspection estimated at 4 hour per day consisting of an inspector to assist and observe day-to-day conduct of construction. This will include acting as the project hub for communications, monitoring Contractor adherence to Contract Documents and documentation of Contractor's work progress for payment. Work will include the following:

- Prepare Field Note Records that detail Contractor's completed work for inclusion in monthly Pay Estimates. Field Note Records will internally be checked for accuracy prior to being entered into Pay Estimates.
- Prior to monthly Pay Estimate completion, the CM Consultant will coordinate with each of the Contractors to reach agreement on the Pay Estimate quantities.
- Review the materials delivered to the project site to ensure they are approved construction materials. This will be done by checking them against the approved Submittals and noting materials delivered on Inspector Daily Reports (IDR).
- CM Inspector will prepare up to 40 Inspector's Daily Reports. IDRs will include:
  - Weather information.
  - The Contractor and Subcontractors working that date, as well as the on-site representative for each.
  - A work activity summary.
  - Bid items worked on.
  - Equipment and employees utilized and hours used/worked.
  - A diary to be used as a narrative of the day's events.
  - Photos.
  - Materials used.
- Take photos of construction progress and will maintain them electronically in an orderly fashion. Upon completion of the project, these photos will be burned to discs that will be included in the hard-copy files.
- Review the Contractor's As-Built drawings. Drawings will be checked for accuracy and to determine if they reflect as-constructed conditions.

The Consultant shall perform a preliminary review of submittals and coordinate technical engineering reviews when appropriate. Materials that do not require testing will be rejected, approved, or conditionally approved per the requirements of the City and the Contract provisions. Materials that require testing will be rejected, approved, or conditionally approved per results of field evaluation materials testing is scheduled for this project through a Materials testing agency if needed. The Contractor will be notified immediately of any unapproved materials or failed test results.

- The Prime Consultant will update the Submittal list as submittals are rejected, approved, or conditionally approved as well as when test results are obtained.
- The CM Consultant will inspect materials and conduct testing in accordance with the Cities direction and reasonable field evaluation.

**Deliverables:**

1. Field Note Records

2. Inspector's Daily Reports
3. Disc of construction progress photos

#### Task 500.40 Construction Closeout Services

The Construction Management Consultant shall assist the CITY with the close-out of the punch list of the project. Items of work include the following:

- Coordinate with the CITY and the Contractor to resolve outstanding project issues. This includes up to (2) Project Closeout Meetings. The Prime Consultant will prepare and distribute the agendas and minutes.
- Prepare a Punch List of work items for the Contractor. This list will be created with input from the CITY. Creation of the list will include 1 initial project walkthrough and up to 2 follow-up walkthroughs to ensure Punch List work is complete. The list may still be revised after it has been issued to the Contractor.
- Take photos of completed project and will maintain them electronically in an orderly fashion. Upon completion of the project, these photos will be burned to discs that will be included in the hard-copy files.
- The Prime Consultant will create Record Drawings for city records upon issuance of Physical Completion and the CM Consultant will perform a review of the drawings for accuracy.
- Attend a wrap up meeting with the CITY.

Deliverables:

1. Final Punch List
2. Disc of completed project photos.

END OF SCOPE OF WORK



Client: City of North Bend, WA  
Project: North Bend Bridge 1135-3 Scour Assessment  
Project No: P5541838010A1

## Original Contract

This Supplement

Tattva

\$62,600.97

# North Bend Bridge Scour

Level of Effort Worksheet

## Level of Effort Worksheet

Construction Services

Total: \$ 45 780 55

total: \$ 45 780 55

Trips to site (Jeff)	5
Trips to site (inspector)	44



# City Council Agenda Bill

SUBJECT:	Agenda Date: August 1, 2023	AB23-091
<b>Motion Authorizing Amendment No. 1 to Contract with KBA for Public Works Inspection Support</b>	Department/Committee/Individual	
Cost Impact: \$150,000	Mayor Rob McFarland	
Fund Source: ~90% (reimbursable “pass thru” cost paid by developers, paid for by grants from capital projects, and/or funded via Park Impact or Transportation Impact Fees) and ~10% (General Fund for miscellaneous support)	City Administrator – David Miller	
Timeline: Immediate through 12/31/2025	City Attorney – Lisa Marshall	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Comm. & Economic Development – Rebecca Deming	
	Finance –	
	Public Works – Mark Rigos, P.E.	X

**Attachments:** Scope of Services & Rates

## SUMMARY STATEMENT:

In mid July of 2023, under the City of North Bend’s Mayor legislated authority, the City signed a professional services contract for a not to exceed amount of \$25,000 with KBA for public works, private development, and parks projects related infrastructure inspection support. While this contract was being prepared, the City’s Public Works inspector had a health emergency and will be on lighter duty for an extended period. The City is now in need of more support than \$25,000 as provided for in the initial contract. This proposed contract amendment is for \$150,000, thus the total contract amount would become \$175,000. The contract is also being extended to December 31, 2025.

During the past 10 years, the City has used KBA, Inc. for various public works inspection related support when the need arises. This is one of those times. The City has one employee on staff whose primary duty is public works inspection, but sometimes there are too many City capital projects and private development projects being constructed at the same time, thus it’s prudent to have backup support available. The previous contract with KBA recently expired and a new contract was executed in mid July 2023. City Council approval is required for this proposed Contract Amendment, because the total dollar amount would exceed \$25,000.

KBA is headquartered in Bellevue, WA. Below is a sampling of some of the tasks that KBA can provide.

1. Observe technical conduct of construction, including providing day-to-day contact with the construction contractor, City utilities, and other stakeholders, and monitor for adherence to the Contract Documents.
2. Observe material, workmanship, and construction areas for compliance with the Contract Documents and applicable codes. Advise City of any non-conforming work observed during site visits.
3. Prepare Inspector Daily Reports (IDRs), recording the construction contractor’s operations which may include quantities of work placed that day, contractor’s equipment and crews, and other pertinent information.
4. Evaluate issues which may arise as to the quality and acceptability of material furnished, work performed, and rate of progress of work performed by the construction contractor.
5. Coordinate with permit holders on the project to monitor compliance with approved permits.

## City Council Agenda Bill

<ol style="list-style-type: none"> <li>6. Prepare field records and documents to help facilitate administration of the project in accordance with City requirements.</li> <li>7. Attend and actively participate in regular onsite meetings.</li> <li>8. Upon substantial completion of work, coordinate with the City to prepare a ‘punch list’ of items to be completed or corrected.</li> </ol>
--

City staff believe it's in the City's best interests to continue to receive public works related inspection support when necessary and recommend approval of this item.

APPLICABLE BRAND GUIDELINES: Consistent delivery of quality basic services including transportation and traffic management.

COMMITTEE REVIEW AND RECOMMENDATION: This agenda item was discussed at the July 25, 2023 Transportation and Public Works Committee Meeting and was recommended for approval and placement on the Consent Agenda.

RECOMMENDED ACTION: **MOTION to approve AB23-091, authorizing Amendment No. 1 to contract with KBA for Public Works Inspection Services, in an amount not to exceed \$150,000, in a form and content approved by the City Attorney.**

### RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
August 1, 2023		

**EXHIBIT A**  
**SCOPE OF SERVICES**  
**for**  
**North Bend 2023-25 On-call for Inspection Services**

KBA, Inc. (Consultant) will provide Inspection services to the City of North Bend (Client), for the project known as **North Bend 2023-25 On-call for Inspection Services** (Project). These services will include consultation, contract administration, field observation and documentation, during the construction of the Project(s), as detailed below.

**Project Description:** The Client has multiple pedestrian and roadway capital improvement projects in addition to many private development projects that shall require inspections.

## I. INSPECTION SERVICES

**A. Consultant Contract and Team Management:** Provide overall day-to-day management of the Consultant contract and Team, including:

1. Liaison and coordinate with Client on a regular basis to discuss Project issues and status.
2. Manage Consultant Team, comprised of Consultant's staff. Organize and layout work for Consultant Team. Orient Client-provided Inspectors to Consultant inspection procedures and documentation.
3. Review monthly expenditures and Consultant Team scope activities. Prepare and submit to Client monthly, an invoice and progress report describing services provided during that period. Consultant will submit one invoice for all city of North Bend capital projects, itemized per project. Consultant will submit a second invoice, if needed, for Private Development inspection service, itemized per permit number and project name.

*Deliverables*

- *Monthly invoices*

## B. Construction Phase Services – Field

1. Observe the technical conduct of the construction, including providing day-to-day contact with the construction contractor, Client, utilities, and other stakeholders, and monitor for adherence to the Contract Documents.
2. Observe material, workmanship, and construction areas for compliance with the Contract Documents and applicable codes. Advise the Client of any non-conforming work observed during site visits.
3. Prepare Inspector Daily Reports (IDRs), recording the construction contractor's operations as actually observed by the Consultant; includes quantities of work placed that day, contractor's equipment and crews, photos of work performed, and other pertinent information.
4. Interpret Construction Contract Documents, in coordination with Designer.
5. Evaluate and report to Client issues that may arise as to the quality and acceptability of material furnished, work performed, and rate of progress of work performed by the construction contractor.

## KBA, Inc.

6. Establish communications with adjacent property owners and respond to questions from property owners and the general public, if requested for the Client.
7. Coordinate with permit holders on the Project to monitor compliance with approved permits, if applicable.
8. Prepare field records, daily reports of force account worked, and other payment source documents to help facilitate administration of the Project in accordance with funding agency requirements.
9. Attend and actively participate in regular on-site meetings.
10. Take periodic digital photographs during the course of construction. Photographs to be labeled and organized in accordance with Client protocol.
11. Punch List. Upon substantial completion of work, coordinate with the Client and affected agencies, to prepare a 'punch list' of items to be completed or corrected. Coordinate final inspection with those agencies, if requested by Client.
12. Testing. Conduct or cause to be conducted, materials and laboratory tests. Coordinate the work of the Field Representative(s) and testing laboratories in the observation and testing of materials used in the construction; document and evaluate results of testing; and inform Client and construction contractor of deficiencies.

### *Deliverables*

- *IDRs with Project photos – submitted on a weekly basis*
- *Field Note Records and Daily Reports of Force Account Worked*

## C. Assumptions

1. **Budget:**
  - a. Consultant will work up to the limitations of the contract amount. If additional budget is needed to cover instances, including but not limited to the following, Client and Consultant will negotiate a Supplement to this Agreement.
  - b. The work is anticipated to be performed during daytime hours. Should night work be necessary, a 15 percent differential for labor will be applied to all night shift hours worked by Consultant's employees.
2. **Items and Services Client will provide:**
  - a. Meeting arrangements and facilities for project meetings.
  - b. Coordination with and enforcement of utility franchise agreements and/or contracts and schedules for services related to this Project.
  - c. Verify that the required permits, bonds, and insurance have been obtained and submitted by the construction contractor. Obtain all permits not required to be provided by construction contractor.
3. **Scope:**
  - a. Consultant will provide observation services for the days/hours that its' Inspector(s) personnel is/are on-site. The Inspector(s) will not be able to observe or report construction activities, or collect documentation, during the time they are not on-site.
  - b. The Consultant's monitoring of the construction contractor's activities is to ascertain whether or not they are performing the work in accordance with the Contract Documents; in case of noncompliance, Consultant will reject non-conforming work and pursue the other remedies in the interests of the Client, as detailed in the Contract Documents. The Consultant cannot guarantee the construction contractor's performance, and it is understood that Consultant shall assume no responsibility for proper construction means,

## KBA, Inc.

methods, techniques, Project site safety, safety precautions or programs, or for the failure of any other entity to perform its work in accordance with laws, contracts, regulations, or Client's expectations.

- c. Definitions and Roles. The use of the term "inspect" in relation to Consultant services is synonymous with "construction observation," and reference to the "Inspector" role is synonymous with "Field Representative," and means: performing on-site observations of the progress and quality of the Work and determining, in general, if the Work is being performed in conformance with the Contract Documents; and notifying the Client if Work does not conform to the Contract Documents or requires special inspection or testing. Where "Specialty Inspector" or "specialty inspection" is used, it refers to inspection by a Building Official or independent agent of the Building Official, or other licensed/certified inspector who provides a certified inspection report in accordance with an established standard.
- d. Consultant is not responsible for any costs, claims or judgments arising from or in any way connected with errors, omissions, conflicts or ambiguities in the Contract Documents prepared by others. The Consultant does not have responsibility for the professional quality or technical adequacy or accuracy of the design plans or specifications, nor for their timely completion by others.
- e. RCW 4.24.115 is applicable to Consultant's services provided under this Agreement.
- f. Consultant's insurance carrier provides coverage on ISO equivalent endorsement forms.
- g. Services provided by the Consultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances, in the same geographical area and time period.
- h. Nothing in the Agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other. Consultant makes no warranties, guarantees, express or implied, under this Agreement or otherwise in connection with Consultant's services.



All Inclusive Rates						
Effective June 1, 2023 through December 31, 2025						
		2023	2024	2025		
Labor Class	Personnel Classification	All Inclusive Rates Classes E and T <sup>1,2</sup>	All Inclusive Rates Classes E and T <sup>1,2</sup>	All Inclusive Rates Classes E and T <sup>1,2</sup>		
M-3	Manager III	\$ 256.50	\$ 269.33	\$ 282.79		
A-4	Administrator IV	\$ 151.05	\$ 158.60	\$ 166.53		
A-2	Administrator II	\$ 92.11	\$ 96.72	\$ 101.55		
E-5	Engineering / Professional V	\$ 207.00	\$ 216.98	\$ 227.45		
E-4	Engineering / Professional IV	\$ 184.20	\$ 193.04	\$ 202.31		
E-3	Engineering / Professional III	\$ 167.10	\$ 175.08	\$ 183.46		
E-2	Engineering / Professional II	\$ 135.75	\$ 142.16	\$ 148.90		
T-6	Technical Representative VI	\$ 204.15	\$ 213.98	\$ 224.31		
T-5	Technical Representative V	\$ 178.50	\$ 187.05	\$ 196.03		
T-4	Technical Representative IV	\$ 167.10	\$ 175.08	\$ 183.46		
T-3	Technical Representative III	\$ 150.00	\$ 157.13	\$ 164.61		

1 Classes E & T include Vehicle rate & Applicable Tax\*

2 Night Work hours between 7:00 PM - 6:00 AM will have 15% add to the rates





## City Council Agenda Bill

SUBJECT:	Agenda Date: August 1, 2023	AB23-092
<b>Resolution Authorizing a Developer Extension Agreement with Otis Milam for the Milam Sewer Main Extension Project</b>	Department/Committee/Individual	
	Mayor Rob McFarland	
	City Administrator – David Miller	
	City Attorney – Lisa Marshall	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Comm. & Economic Development – Rebecca Deming	
Cost Impact: N/A	Finance	
Fund Source: N/A	Public Works – Mark Rigos	X
Timeline: Immediate		

**Attachments:** Resolution, Exhibit A - Developer Extension Agreement, Exhibit B - Vicinity Map

### SUMMARY STATEMENT:

Otis Milam has submitted a clearing and grading permit application to construct a private road and public sewer main extension to serve his parcel addressed 1545 SE Cedar Falls Way (see Vicinity Map - Exhibit B). Proposed improvements will provide access and public sewer for an adjacent landlocked parcel.

Pursuant to North Bend Municipal Code Section 19.01.200, the developer must enter into a Developer Extension Agreement (DEA) with the City of North Bend (City) to design and construct the public sewer main extension, post the necessary bonds, and pay for City expenses related to the review, inspection, and administration of the DEA.

A DEA has been prepared, reviewed by the City Attorney, and reviewed by Otis Milam.

Once the improvements are constructed, then a Bill of Sale will be signed by Otis Milam to transfer ownership and maintenance of the sewer pipe to the City.

**APPLICABLE BRAND GUIDELINES:** This project will meet the requirements of City design standards.

**COMMITTEE REVIEW AND RECOMMENDATION:** This item was mentioned during the Transportation and Public Works Committee meeting on July 25, 2023 and was recommended for approval and for placement on the Consent Agenda.

**RECOMMENDED ACTION:** **MOTION to approve AB23-092, a resolution authorizing a Developer Extension Agreement with Otis Milam for the Milam Sewer Main Extension Project.**

### RECORD OF COUNCIL ACTION

Meeting Date	Action	Vote
August 1, 2023		



# RESOLUTION

## A RESOLUTION OF THE CITY OF NORTH BEND, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A DEVELOPER EXTENSION AGREEMENT (DEA) WITH OTIS MILAM FOR THE MILAM SEWER MAIN EXTENSION PROJECT

**WHEREAS**, Otis Milam has submitted a clearing and grading permit application to construct a private road and public sewer main extension to serve his parcel addressed at 1545 SE Cedar Falls Way, North Bend; and

**WHEREAS**, the proposed improvements will also provide access and public sewer for an adjacent landlocked parcel; and

**WHEREAS**, Section 19.01.200 of the North Bend Municipal Code (NBMC) requires a developer enter into a Developer Extension Agreement (DEA) with the City to design and construct the public sewer main extension, post the necessary bonds, and pay for all City expenses related to the review, inspection, and administration of the DEA; and

**WHEREAS**, once the improvements are constructed, a Bill of Sale will be signed by Otis Milam to transfer ownership and maintenance of the sewer main extension to the City; and

**WHEREAS**, the City Council desires to authorize the Mayor to execute a DEA with Otis Milam for the Milam Sewer Main Extension Project in order to accomplish the foregoing;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND,  
WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1.** The Mayor is authorized to execute a DEA with Otis Milam for the Milam Sewer Main Extension Project, in the form substantially the same as attached hereto as Exhibit A and as acceptable to the City Attorney.

**PASSED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND,  
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 1<sup>ST</sup> DAY OF  
AUGUST, 2023.**

**CITY OF NORTH BEND:**

**APPROVED AS TO FORM:**

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**Rob McFarland, Mayor**

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**Lisa Marshall, City Attorney**

**ATTEST/AUTHENTICATED:**

Effective:

Posted:

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**Susie Oppedal, City Clerk**



## **DEVELOPER EXTENSION AGREEMENT CONTRACT DOCUMENTS**

### **Milam Sewer Extension Otis Milam Sewer**

**CITY OF NORTH BEND  
A MUNICIPAL CORPORATION OF  
THE STATE OF WASHINGTON**

**MAYOR:** Rob McFarland

**City Council**

Brenden Elwood  
Alan Gothelf  
Jonathan Rosen  
Mark Joselyn

Heather Koellen  
Mary Miller  
Ross Loudenback

**City of North Bend**  
920 SE Cedar Falls Way  
North Bend, WA 98045  
(425) 888-1211 FAX (425) 831-6200

**City Staff**

**City Administrator:** David Miller, AICP  
**City Attorney:** Lisa Marshall  
**Public Works Director:** Mark Rigos, P.E.

**DEVELOPER EXTENSION AGREEMENT  
CONTRACT DOCUMENTS****Sewer****Table of Contents**

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**CHECKLIST  
for Constructing Extensions  
to the Sewer**

**PROJECT TITLE:** Otis Milam Sewer Extension

**DATE:** July 12, 2023

**DEVELOPER NAME:** Otis Milam

**MAILING ADDRESS:** 1545 SE Cedar Falls Way, North Bend, WA 98045

**PHONE:** 206-478-3013

**CONTACT:** Otis Milam

**Owner:**

Name: Otis Milam  
Address: 1545 SE Cedar Falls Way, North Bend, WA 98045  
Phone: 206-478-3013

**Developer:**

Name: Otis Milam  
Address: 1545 SE Cedar Falls Way, North Bend, WA 98045  
Phone: 206-478-3013

**Developer's Agent:**

Name: Feras Arnaout  
Address: 15873 Northup Way, Bellevue, WA 98008  
Phone: 206-636-3707

**Dates Accomplished:**

Water: N/A \_\_\_\_\_  
Sewer: \_\_\_\_\_  
Stormwater: N/A \_\_\_\_\_  
Streets: N/A \_\_\_\_\_

**A. Approval of Agreement**

1. Signed Agreement Submitted (Developer)
2. Administrative, Legal and Engineering Fee and Deposits Paid (Developer)
3. Evidence of Environmental Compliance (Developer)
4. Environmental Significance (City Engineer)
5. Extension Agreement Approved (City)

6. Resolution Accepting Agreement (City)

**B. Required Before Plans are Prepared or Approved**

1. Binding Site Plan Map or Site Plan (scale 1"=20') (Developer)
2. Contour map with 2 contour intervals NAVD '88 Datum (scale 1"=20') (Developer) Eight sets of the Extension Construction Plans and 3 copies of Specifications if prepared by Developer's Engineer (Developer)

**C. Required Before Construction by Developer**

1. Approval of Developer's prepared Plans and Specifications (City Engineer)
2. Construction Cost Estimate and Bill of Sale forms (Engineer)
3. Plans and Specifications approved by appropriate outside Agencies as applicable (Engineer)
4. Application for and Receipt of Necessary Permits (Developer)
5. Performance Bond (Developer)
6. Certificate of Insurance (Developer)
7. All Required Easements Obtained, if applicable (Developer)

**D. Required Before Construction Begins**

1. Submittal of Material and Equipment List (Contractor/Developer)
2. Pre-construction Conference
3. Approval of Material and Equipment List (City Engineer)
4. 48-hours' Notice of Start of Construction to City (Contractor/Developer)

**E. Required Before any Service is Connected**

1. All Extension Fees and Charges Paid (Developer)
2. Other Charges established by City Ordinance Paid (Developer)
3. Approval of Completion of Construction (City Engineer)
4. Executed Bill of Sale Delivered to City (Developer)
5. Resolution Accepting Facilities (City)
6. Substitution of Maintenance Bond for Performance Bond (Developer)

**F. To Be Done Prior to Warranty Expiration**

1. At eleven (11) months after Acceptance, re-inspect all facilities and notify Developer of Deficiencies, if any (City)
2. Follow-up to Correct Deficiencies, if any (City)
3. Expiration of two (2) year warranty

**AGREEMENT TO CONSTRUCT EXTENSION TO  
SEWER SYSTEM**

Otis Milam (the "Developer"), hereby enters into this Agreement to Construct Extension to Sewer Systems (the "Agreement") with the City of North Bend, a Washington municipal corporation ("City"), for permission to construct and install certain sewer mains and appurtenances, or other sewer system improvements, in the public right-of-way and/or on private property in connection with the Milam Sewer Extension (the "Extensions"), and to connect the same to the City's sewer system.

**1. GENERAL**

- A. Upon approval of the City Council and execution of this Agreement, Developer is hereby authorized to construct extensions to the City's sewer system subject to this Agreement and including the following, each of which is incorporated herein by this reference and all of which are collectively referred to as the "Contract Documents" and included herewith:
  1. Terms and conditions of this Agreement, and all Exhibits and Addenda hereto;
  2. Performance Bond;
  3. Maintenance Bond;
  4. Utilities Easement(s), if any;
  5. Bill of Sale;
  6. Standards for Preparation of Extension Plans and Specifications; and
  7. General Conditions for Developer Extensions.
- B. Developer shall pay all costs of designing, engineering and constructing the Extension. All construction shall be done to City standards and according to plans approved by the City.
- C. Upon final acceptance by the City of the Extension as set forth herein, the City will provide sewer service through the Extensions to residential customers on Developer's Property (defined in Section 2 below) in accordance with applicable laws, rules, regulations, and resolutions and policies of the City.
- D. The term of this Agreement shall commence on the date of the last signature hereto, and shall expire on the date of final acceptance of the Extensions by the City.

**2. LOCATION OF EXTENSIONS**

The Extensions will be installed to serve the property owned by Developer ("Developer's Property"), which is legally described on the attached Exhibit A, which is incorporated herein by reference.

The Extensions will be installed on and in the existing public right of way, on and in the Developer's Property and/or on and in property subject to easements benefitting Developer's Property.

**3. DESCRIPTION OF EXTENSION**

The preliminary plat or site plan is attached hereto as Exhibit B, which is incorporated herein by this reference. Exhibit B depicts the locations of the following proposed extension:

**Sewer Extension:** Approximately 210±/- linear feet of eight (8)-inch sewer mains and other applicable sewer system facilities and appurtenances located within the Developer's Property and within the existing public right-of-way.

A. The City may require that the above-described sewer extensions be modified (including changes in design and location) during the preparation of construction plans and specifications as deemed necessary by the City. The construction plans and specifications, when approved by the City, shall be deemed the documents describing the sewer extensions to be authorized for construction by Developer under this Agreement.

**4. EXTENSION FEES, DEPOSITS, AND CHARGES**

Extension fees, costs and charges shall be paid by Developer for the services and costs listed below:

A. **City Administrative Services**

1. Review and revisions, if necessary, to the Agreement and preparation of resolutions accepting the Agreement and amending the City's Comprehensive Plan (if required).
2. General consultation with Developer regarding the requirements of the City, the procedures for Developer to make the Extensions, and the administration of the Agreement.
3. Preliminary review of the proposed development and preliminary determination of the water, sewer, stormwater, and street facilities required to extend services to Developer's Property.

B. City Basic Engineering Review

1. Review and approval of construction plans and specifications prepared by Developer's engineer.
2. Review of the construction cost estimate and bill of sale forms.
3. Review of this Agreement for purposes of state and county permits, where applicable.
4. Consultation with Developer during the period of the Agreement regarding design of the Extensions, the City's specifications, and other City requirements.
5. Review for environmental compliance.

C. City Construction Engineering Services

1. Schedule and conduct pre-construction conference.
2. Review of construction stakes provided by Developer's engineer and surveyor.
3. Daily inspection of the construction in progress as required to ensure that the construction of the Extensions are in accordance with the approved construction plans and specifications.
4. Inspection of the tests required by the specifications and inspection of any re-testing which may be necessary.
5. Final inspection of the completed Extensions and preparation of the inspection report setting forth any deficiencies that may exist.
6. Re-inspection of deficient work.
7. Final review of the completed Extensions and examination of the required documents to ensure that the City has legal title to the necessary easements and/or rights-of-way, review and approval of Developer's warranty and bill of sale, and preparation of a final recommendation of acceptance of the completed Extensions.
8. Revision of plans to conform to construction records.

D. Reimbursement for City's Legal Services

1. Review and revisions, if necessary, to the Agreement and preparation of resolutions accepting the Agreement and amending the City's Comprehensive Plan (if required).
2. Review of easements as required.
3. Review of Developer's Performance Bond, Insurance Certificate, and other performance guarantees and security.
4. Preparation of reimbursement agreement, if required.
5. Any other legal services required by the City in conjunction with this Agreement and administration of the Extensions.

E. Additional City Legal, Engineering, and Other Professional Services

1. Revision of the contract plans and specifications and work occasioned by the need, request, or act of Developer related thereto, or review and approval of revisions prepared by Developer's engineer.
2. Additional legal and/or engineering fees may be charged on a time-and-expense basis where a special contract is required and/or special problems arise with such third parties as King County, Boundary Review Board, State of Washington, or others, in order for the City to enter into this Agreement and/or comply with SEPA or NEPA which requires the representation of the City's legal counsel and/or Engineering Consultant.
3. Any other work reasonably required by the City in conjunction with this Agreement and/or administration of the Extensions.

F. Other Costs

1. All other fees and additional charges as required by governmental agencies.

G. Connection Charges and Reimbursement Amount1. *Connection Charges*

The City has established charges for connection to the sewer and storm water systems. The amounts of the charges are established by ordinance and are subject to amendment based on adjustments in the cost of providing new facilities, the actual cost of facilities and improvements previously constructed, and changes in the City's Comprehensive Plan which may alter the nature, extent, and cost of these facilities.

2. *Reimbursement Amount*

Where Developer's Property is served in whole or in part by an existing extension constructed by others and transferred to the City, and a reimbursement agreement was in effect at the time Developer submitted its development application, Developer shall pay a reimbursement to the City representing the fair and equitable share of the existing extension to which all or a portion of Developer's Property may be connected.

The reimbursement for existing facilities is established by the City Council based on the actual cost of construction of the facility and a proration of the cost of that facility so that the properties which are benefited may connect to the facility. The reimbursement will vary for each existing facility based on its cost and the benefitting property.

### 3. *Service Charges*

Developer acknowledges and agrees that the City may impose service charges and other taxes and fees as allowed by law upon property owners/residents for water, sewer, stormwater, and street services. Nothing in this Agreement shall be construed to restrict or prohibit the City's imposition of such charges, fees, or taxes.

## 5. **CALCULATION OF COSTS, FEES, AND CHARGES**

Fees and charges for all administrative and other services and reimbursements described in Sections 4(A) through 4(E) will be invoiced by the City on an actual time and expense basis. The term "time and expense basis" shall mean the City's actual cost for services rendered by the City staff or its contractors or consultants. Payment for the fees, charges, and costs described in Sections 4(F) and 4(G) shall be based on actual incurred costs or in such amount as is established by City ordinance for such fee, cost, or charge. All such fees and charges identified in Section 4 are collectively referred to herein as "Processing Costs."

## 6. **PAYMENT OF FEES AND CHARGES**

### A. Developer Deposit

The City will provide Developer with an itemized monthly invoice for Processing Costs, including staff time and invoices from contracted consultants, if any, commencing on the fifth (5<sup>th</sup>) day of the month following the first (1<sup>st</sup>) month during which the City incurs Processing Costs. Developer shall pay the City's invoice on or before the 20<sup>th</sup> day (or 15 days after mailing of the invoice by the City, whichever is later), subject to the provisions of the Memorandum of Understanding paragraph 2.6, together with any additional amounts required to maintain the required credit balance as required by Memorandum of Understanding paragraph 2.3. If any sum required to be paid hereunder is not timely remitted, the City may suspend processing until payment is made, and/or may terminate the Memorandum of Understanding and require the deposit of the full estimated amount of Processing Costs.

### B. Connection Charge and Reimbursement Estimate

All connection charges and reimbursement amounts shall be paid by Developer to the City prior to the issuance of any building permit, in accordance with the current City of North Bend Taxes, Rates and Fees Schedule. Acceptance of the completed Extensions by the City and provision of services to Developer's Property shall be in accordance with this Agreement and applicable North Bend Municipal Code requirements.

**7. ENGINEERING PLAN APPROVAL**

Plans shall be prepared consistent with the requirements of the North Bend Municipal Code. Once plans have been reviewed and determined to meet code requirements, City shall inform the Developer as to the number of plan sets and additional submittal items required for engineering plan approval.

**8. INSURANCE AND INDEMNIFICATION****A. Indemnification**

The Developer shall defend, indemnify, and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits including but not limited to attorneys' fees and expert witness fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Developer and the City, its officers, officials, employees, and volunteers, the Developer's liability hereunder shall be only to the extent of the Developer's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Developer's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

**B. Insurance Requirements**

Developer shall procure and maintain insurance covering commercial general liability and injury and property damage to the City and to third parties in connection with the performance of this Agreement hereunder by the Developer, its agents, representatives, employees, or subcontractors, in which the City and the City's Engineer shall be named additional insureds. Such insurance shall be maintained without interruption from commencement of construction of the Extensions through thirty (30) days after the completion of the Extensions. Developer's maintenance of insurance, its scope of coverage, and limits as required herein shall not be construed to limit Developer's liability to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity. Before beginning construction of the Extensions, Developer shall furnish the City with original certificates of insurance and a copy of the amendatory endorsements, including but not limited to the additional insured endorsements, evidencing these insurance requirements have been satisfied. A copy of the certificates of insurance shall be included with the final Contract Documents. This insurance shall be deemed primary coverage as to the City, with any insurance carried by

the City classified as additional coverage and shall not contribute with the Developer's insurance. The insurance policies shall contain a "cross liability" provision.

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII and shall be issued by an insurance company authorized to do business within the State of Washington. The City does not waive its right to subrogation against the Developer, and the policy shall be so endorsed. The Developer shall instruct the insurers to give the City 30-days advance notice of any insurance cancellation.

If any insurance policy is written on a "Claims Made" form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is Claims Made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Final Completion or earlier termination of this contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

The Developer, its subcontractors, sub-subcontractors, agents, and employees, waive all rights of subrogation against the City, for damages caused by fire or other perils to the extend covered by the General Liability and Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of the Agreement or other property insurance applicable to the Work. The policies shall provide such waivers by endorsement.

Developer shall ensure that each subcontractor, sub-subcontractor, agents, and employees of every tier obtain at a minimum the same insurance coverage and limits as stated herein for the Developer. Upon request by the City, the Developer shall provide evidence of such insurance.

Developer shall obtain insurance of the types and amounts described below:

- Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage. The Automobile Liability insurance shall have a minimum Combined Single Limit for bodily injury and property damage of at least \$1,000,000 per accident.
- Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop

gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Per Project Aggregate Endorsement ISO form CG 25 03 11 85. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named by endorsement as an additional insured under the Developer's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage. The Developer may submit a copy of any blanket additional insured clause from its policies instead of a separate endorsement. A statement of additional insured status on an ACORD Certificate of Insurance shall not satisfy this requirement. The Developer's Commercial General Liability policy shall include Waiver of Transfer of Rights of Recovery Against Others to Us endorsement (CG 24 04 05 09) or equivalent coverage. Commercial General Liability insurance shall be written with limits no less than \$3,000,000 each occurrence, \$3,000,000 per project aggregate, and a \$3,000,000 products-completed operations aggregate limit.

- Employers Liability coverage to include bodily injury and bodily injury by disease. Employers Liability coverage may be included in the Contractor's General Liability Coverage or as a stand-alone policy. Workers Compensation and Employers' Liability coverage shall be in the amount of at least \$1,000,000 Employers' Liability each accident, \$1,000,000 Employers' Liability Disease-each employee, \$1,000,000 Employers' Liability Disease-policy limit.
- Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington. The City will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for this Contractor or any sub-Contractor or employee of the Contractor which might arise under the industrial insurance laws during the performance of duties and services under this contract. If the Department of Labor and Industries, upon audit, determines that industrial insurance payments are due and owing as a result of work performed under this contract, those payments shall be made by the Contractor; the Contractor shall indemnify the City and guarantee payment of such amounts.
- Builders Risk: The Developer shall provide insurance covering interests of the City, the Developer, and sub-contractor(s) in the work. Builders Risk insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood and earthquake, theft, vandalism, malicious mischief, collapse, temporary

buildings and debris removal. This Builders Risk insurance covering the work will have a deductible of at least \$5,000 for each occurrence, which will be the responsibility of the Developer. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by the Developer and written acceptance by the City. Any increased deductibles accepted by the City will remain the responsibility of the Developer. The Builders Risk insurance shall be maintained until final acceptance of the work by the City. All subcontractors shall be covered under the general Developer's builder's risk policy or shall provide proof of their own Builders Risk Policy. Builders Risk insurance shall be written in the amount of the completed value of the project with no coinsurance provisions. All subcontractors shall be covered under the general Developer's Builder's Risk policy or shall provide proof of their own Builders Risk Policy.

The Developer shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Developer's employee-owned tools, machinery, equipment, or motor vehicles owned or rented by the Developer, or the Developer's agents, suppliers or Contractors as well as to any temporary structures, scaffolding and protective fences.

## **9. SURETY**

Prior to beginning construction of the Extensions, Developer shall furnish to the City a Performance Bond between Developer and the City, in the form approved by the City, in an amount equal to the estimated cost of the Extensions in existing public rights-of-way and any temporary erosion and sediment control.

The performance bond shall assure and guarantee compliance with this Agreement, the satisfactory completion of all Extensions, payment of all fees required herein, restoration of any impacted pre-existing City facilities in accordance with the terms of this Agreement, and shall hold the City harmless from any claims resulting therefrom.

Developer may provide the City with a cash deposit in lieu of the performance bond required herein. No construction shall be commenced until the cash deposit is accepted by the City. This cash deposit shall be conditioned and held subject to the same terms as the Performance Bond, and will be refunded to Developer upon satisfactory completion of the Extensions and connection of the Extensions to the existing system; provided, that in the event pre-existing City facilities have not been repaired or restored as required by this Agreement, the City may, in addition to any other rights it may have, retain the total amount of the cash deposit as liquidated damages or such portion of said deposit as may be necessary to defray such costs.

**10. EASEMENTS**

Any necessary easements shall be obtained by Developer at its sole cost and expense in the form approved by the City Attorney. The easement(s) shall name the City as grantee, and a copy of each easement shall be delivered to the City before Developer begins construction on the Extensions. Prior to construction of the Extensions, a title insurance policy insuring the City's clear title to the easement(s), in a sum not less than \$5,000 per 500 feet of easement, shall be provided to the City by Developer.

**11. PERMITS**

All the necessary permits from any governmental agency shall be obtained by Developer directly and the City shall be provided with a copy of all permits obtained by Developer before construction commences. The City shall not be required to appeal the denial of any such permit, and the risk of obtaining and complying with all permits and approvals rests solely with Developer.

**12. CONNECTION TO THE CITY'S SYSTEM**

Not less than 48 hours prior to the time that connection to the City's system is desired, the Developer or Developer's licensed contractor shall notify the City Engineer and/or City inspector. All connections to the existing system and all testing of the new line shall be at a time and in the manner specified by the City and shall be conducted in the presence of the City's authorized representative. Where connections to the City's water or sewer system would, in the opinion of the City, create unacceptable disruption to service, such connection shall be made by live tap.

**13. CONDITION PRECEDENT**

The City's obligation to allow connection of the Extensions to the City's system, or to provide sewer extensions to Developer's Property, shall not arise until Developer has complied with all terms and conditions of this Agreement, and all applicable ordinances, resolutions and requirements of the City, including payment of all fees and charges.

The City shall not be obligated to provide water service, sewer service, stormwater service, or street extensions to Developer's Property real property unless or until the construction of the Extensions has been completed and title accepted by the City.

**14. FINAL ACCEPTANCE**

Following the City Engineer's final inspection and approval of the Extensions as having been completed in accordance with the plans and specifications of this Agreement, Developer shall convey ownership to all or such portions of the Extensions to the City as directed by the City.

Upon acceptance of ownership by the City, the Extensions shall be the property of the City and subject to the control, use, and operation of the City, and to all applicable regulations and charges as established by the City from time to time.

Prior to such acceptance, Developer shall execute and deliver to the City a bill of sale and a maintenance bond as follows:

- The bill of sale for the Extensions (or portion thereof) shall be provided in the form approved by the City and containing the warranty set forth in Section 21 of the General Conditions for Developer Extensions, entitled "Warranties of Developer." For plans prepared by Developer's engineer, Developer shall also provide the City with as-built record drawings on mylar and on computer disk in AutoCAD format, certified by a licensed professional land surveyor.
- The maintenance bond shall be provided in the form approved by the City, and shall assure and guarantee Developer's obligations to correct defects in design, labor, and/or materials as provided in this Agreement, and to defend, indemnify and hold harmless the City as provided in this Agreement. The maintenance bond shall continue in force from the date of acceptance and transfer of ownership for a period of two (2) years. The maintenance bond shall be in an amount equal to ten percent (10%) of the cost of said Extensions, or Five Thousand And No/100 Dollars (\$5,000.00), whichever is greater.

## **15. LIMITATION ON ACCEPTANCE**

### **A. Completion**

The Extensions shall be complete and accepted within five (5) years of the date of execution of this Agreement by the City.

### **B. Failure to Commence Construction**

In the event Developer, after the receipt of approved construction plans from the City, has not commenced construction within five (5) years of executing this Agreement, and if the City determines, in its absolute discretion, that it is necessary that the Extensions be completed in order that the City can provide water, sewer, and/or stormwater service and/or street extensions to Developer's Property, then the City may give Developer notice (by certified mail to the addresses shown herein) that construction of the water, sewer, stormwater, and street improvements must be commenced within sixty (60) calendar days of mailing said notice. If construction is not commenced within the time specified in said notice, the City may terminate this Agreement by written notice to Developer. In such event, the City shall retain all payments and deposits made by Developer to the City and the City may, at its discretion, proceed with construction of the

water, sewer, stormwater, and/or street improvements by utilizing the Performance Bond or Construction Cash Deposit.

If a delay in the City's preparation of the plans or the City's review of Developer's prepared plans is occasioned by failure of Developer to provide necessary data or information to the City's engineer for a period of sixty (60) days after notice of the need for such data or information, then the City may terminate this Agreement by written notice to the Developer.

**C. Failure to Complete Construction**

If the Extensions are not completed and accepted within five (5) years from the date this Agreement is executed by the City, Developer's rights under this Agreement shall cease unless the City consents to the renewal of the Agreement or the City and Developer enter a new agreement. In either event, Developer may be required to pay additional administrative fees and additional legal, engineering, and inspection costs as determined by the City.

In the event no new agreement or renewal of this Agreement is entered, the City, in its sole discretion, may proceed to require completion of construction under the provision of Developer's Performance Bond or Construction Cash Deposit for any Extensions on Developer's Property, existing rights-of-way and/or easements.

**16. WARRANTY OF AUTHORITY**

The undersigned Developer warrants that it constitutes the exclusive owner of all of Developer's Property, and agrees to provide, upon request of the City, title insurance at Developer's sole cost and expense, establishing to the satisfaction of the City that the parties executing this Agreement constitute the owners of all the real property described herein and have the authority to execute this Agreement with respect to said real property.

**17. ENFORCEMENT; ATTORNEYS' FEES**

The parties agree to resolve disputes under this Agreement by binding arbitration as provided in Section 26 of the General Conditions, and further acknowledge and agree that by submitting to the alternative dispute resolution process, they intend to surrender their right to have any dispute decided in a court of law by judge or jury. In the event that this Agreement is referred or placed into the hands of attorneys for enforcement of any portion, or if binding arbitration is instituted with respect to a dispute under this Agreement, then the prevailing party shall be paid its reasonable attorneys' fees and expert witness fees, costs, and all other reasonable expenses in connection therewith.

**18. SUCCESSORS AND ASSIGNS**

All of the provisions contained in this Agreement shall be binding upon the heirs, successors, executors, administrators, receivers, trustees, legal representatives, transferees, and assigns of the Developer; and all privileges as well as any obligations and liabilities of the Developer shall inure to its heirs, successors, and assigns equally as if they were specifically mentioned wherever Developer is named herein.

**19. INDEPENDENT STATUS OF DEVELOPER**

The parties to this Agreement, in the performance of it, will be acting in their individual capacities and not as agents, employees, partners, joint ventures, or associates of one another. The employees or agents of one party shall not be considered or construed to be the employees or agents of the other party for any purpose whatsoever.

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2023.

Developer: \_\_\_\_\_

By: \_\_\_\_\_

**CITY OF NORTH BEND, King County, Washington**

By: \_\_\_\_\_  
Rob McFarland, Mayor

**EXHIBIT A**

**Legal Description**

**EXHIBIT A - LEGAL DESCRIPTION**

LEGAL DESCRIPTION:

LOT 2, CITY OF NORTH BEND LOT LINE ADJUSTMENT NO. 2005-001,  
RECORDED MARCH 2, 2006 UNDER RECORDING NO. 2006030290005, RECORDS OF KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION OF PROPERTY AS DESCRIBED IN STIPULATED DECREE AND JUDGEMENT QUIETING TITLE IN KING COUNTY  
SUPERIOR COURT CAUSE NO. 04-2-39597-6.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

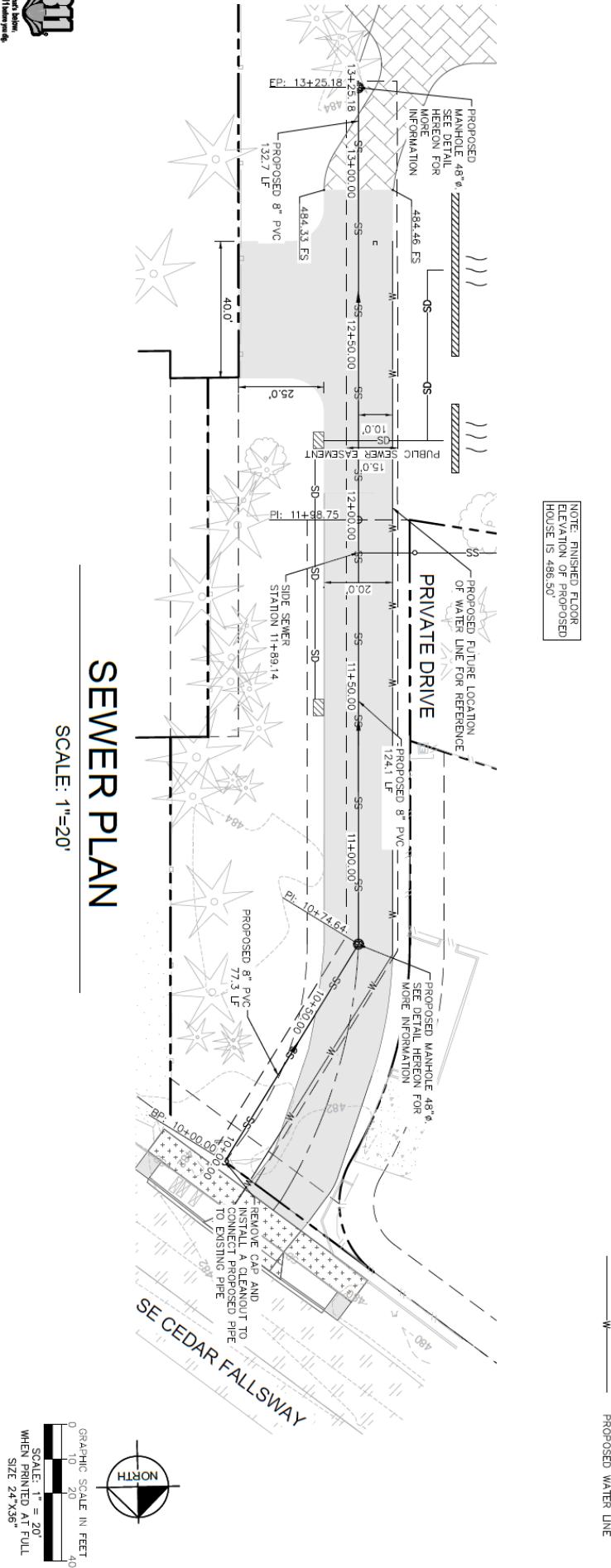
**EXHIBIT B**

**Preliminary Plat / Site Plan**



SEWER PLAN

SCALE: 1" = 20'





## City of North Bend Performance and Maintenance Bond Agreement

RE: North Bend Permit No.: \_\_\_\_\_

Applicant: \_\_\_\_\_

Project Address: \_\_\_\_\_

Estimated Cost of Completed Project: \_\_\_\_\_

This Performance and Maintenance Security Agreement (the “Agreement”) is made and entered on the last date set forth below, between the City of North Bend (“City”) and the above named Applicant (“Developer”).

### **RECITALS**

A. Project. The undersigned Developer has applied to the City for a Performance and Maintenance Security Agreement for the project known as Milam Sewer Extension (the “Project”), which is the subject of the permit identified above (the “Permit”) located at the address identified above and legally described in the attached **Exhibit A** (the “Property”).

B. Performance. Subject to the Permit approval granted by the City for the Project, the provisions of the North Bend Municipal Code (“NBMC”) and state law, the Developer will construct or install certain improvements and mitigation in connection with the Project, in accord with the improvements and mitigation identified on the Permit and as shown on the following approved plans: \_\_\_\_\_ approved on \_\_\_\_\_, 20\_\_\_\_ (the “Improvements”).

C. Maintenance. Subject to the approval granted by the City for the Project, the provisions of the NBMC and state law, the Developer will maintain the Improvements in accord with the obligation identified in the Permit and as shown on the following approved plans: \_\_\_\_\_ - \_\_\_\_\_ approved on \_\_\_\_\_, 20\_\_\_\_ (the “Maintenance”).

D. Code Provisions for Security. Performance and Maintenance of the Improvements are subject to the security requirements in the NBMC identified below:

Performance

- NBMC 12.24.15 Right of Way
- NBMC 14.05.045 Critical Areas
- NBMC 14.20.510 Shoreline Permit
- NBMC 17.08.130 Land Segregation
- NBMC 18.18.160 Landscaping
- NBMC 19.10.140 Drainage, Grading and Clearing

Maintenance

- NBMC 14.05.045 Critical Areas
- NBMC 18.18.150 Landscaping
- NBMC 19.10.110 Drainage, Grading and Clearing

E. Type of Security. Developer has elected, consistent with NBMC, to provide the City with the following type of security for this Agreement:

- Performance Bond
- Maintenance Bond

Developer hereby agrees and binds itself and its legal representatives, successors, and assigns as follows:

**TERMS OF AGREEMENT**

1. The Recitals set forth above are incorporated into the Agreement between the City, Developer and any third party who also signs this Agreement.
2. Developer and any third party shall signify their agreement to specific terms by signing under the terms section below that corresponds to the security chosen in recital E. above.
3. Terms - Performance Bond.

- a. Developer, as Principal, and \_\_\_\_\_ as Surety, hereinafter called Surety, are held and firmly bound unto the City, as Obligee, in the penal sum of XXXX (\$XX.XX) for payment where of Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally as described in 3. b. – f. below.
- b. In accord with Recital D above, Developer is required to provide the City with performance security for the Improvements to assure that all work or action identified in Recital B. are satisfactorily completed.
- c. After written notice from the City that Developer has failed to (a) complete all work or action on the Improvements satisfactorily, (b) pay all sums owing to contractors, subcontractors, materialmen, suppliers or others as a result of such work for which a lien against any City property, or property where the improvements are located, has arisen or

may arise; or (c) obtain acceptance by the City for the Project; all on or before the time frame as set forth in the Permit, or any extension of time granted by the City in writing, Principal shall complete to the City's reasonable satisfaction (a) through (c) identified in the written notice by the deadline specified in the written notice, and repair any damage to other work resulting from the Principal's identified failure.

- d. If Principal does not complete the Improvements to the City's reasonable satisfaction as described in c. above, then within five (5) days after the City's written demand to Surety, Surety shall pay to the City all amounts necessary to complete the Improvements up to and including the full penal sum of this bond.
- e. This Agreement for bond shall remain in effect until the City determines in writing at in its sole discretion that the Improvements have been completed.
- f. The City, Developer and Surety also agree to be bound by the General Terms in section 5. below.

IN WITNESS THEREOF, the parties hereto have executed this Agreement.

Principal: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Surety: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

#### 4. Terms - Maintenance Bond.

- a. Developer, as Principal, and \_\_\_\_\_ as Surety, hereinafter called Surety, are held and firmly bound unto the City, as Obligee, in the penal sum of XXXX (\$XX.XX) for payment where of Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally as described in 4. b. – 4.f. below.
- b. Principal has constructed the Improvements for the Project under the Permit in accord with the requirements in Recital B.
- c. After written notice from the City of defects due to faulty materials or workmanship related to the constructed Improvements, Principal shall remedy such defects by the deadline specified in the City's written notice and to the City's reasonable satisfaction, and pay for any damage to other work resulting therefrom.
- d. If Principal does not so remedy such defects to the City's reasonable satisfaction, then within five (5) business days after the City's written demand to Surety, Surety shall pay to the City all amounts necessary to remedy such defects up to and including the full penal sum of this bond.
- e. This Agreement for bond shall remain in effect for \_\_\_\_\_ years from acceptance of the Improvements by the City.

f. The City, Developer and Surety also agree to be bound by the General Terms in section 5. below.

IN WITNESS THEREOF, the parties hereto have executed this Agreement.

Principal: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Surety: \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

5. General Terms.

a. The Developer shall indemnify and hold the City and its agents, employees, and/or officers harmless from, or shall process and defend at its own expense, all claims, damages, suits at law or equity, actions, penalties, losses, or costs of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Developer's performance or failure to perform any aspect of the Agreement. With respect to any such claim or suit brought against the City, Developer also waives its immunity under Title 51 RCW, the Industrial Insurance Act. This waiver is specifically negotiated between the parties.

b. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees, expert witness fees, and costs of suit. This Agreement contains the entire agreement between the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto. The provisions of this Agreement shall not be construed against either party. If any of the provisions of this Agreement are held to be invalid or unenforceable, the remaining provisions will nevertheless continue to be valid and enforceable.

c. Any failure by the Developer to comply with the terms of this Agreement in a timely manner shall constitute default. Any action or inaction by the City following any default in any term or condition of this Agreement shall not be deemed to waive any rights of the City pursuant to this Agreement.

d. The Developer shall pay all additional costs of the City incurred in the administration of the Agreement, including monitoring by the City as required. Said costs will be paid from the Project permitting deposit. Should there not be sufficient funds in the Project permitting deposit to cover such additional costs, then said costs shall be paid by Developer after receipt of invoice from the City. The Director of Planning and/or the Director of Public Works and/or their designees shall periodically inspect the work required hereunder and inspect completed improvements. Notwithstanding the foregoing, if Developer fails to pay for said inspections, the City may use funds from section 3.d. or 4.d. as applicable to cover said costs. This provision shall not be construed as creating any obligation on the City, its employees, agents and representatives to perform such work.

e. In the event the Developer fails to satisfactorily complete the obligations as described in the City's written notice, the City's employees and agents are hereby authorized to enter onto the Property and perform such work. This provision shall not be construed as creating any obligation on the City, its employees, agents and representatives to perform such work.

f. Funds obtained by the City pursuant to 3.d. and 4.d. above may be used by the City to remedy said defects and pay any and all sums owing to contractors, suppliers, laborers, materialmen, subcontractors or others as a result of such work for which a lien against any City property or property where the Improvements are located, has arisen or may arise. Further, said funds may be used to cover the cost of correcting any damage which may occur off-site due to defects, including damage, if any, to public property. This provision shall not be construed as creating any obligation on the City, its employees, agents and representatives to perform such work.

g. Written notice to all parties shall be by prepaid first class mail to the address specified below or as subsequently amended in writing. Notice shall be considered delivered three (3) days after having been deposited in the mail:

City - XX

Developer - Otis Milam  
1545 SE Cedar Falls Way  
North Bend, WA 98045

Surety - XX

IN WITNESS THEREOF, the parties hereto have executed this Agreement.

**CITY OF NORTH BEND**

By: \_\_\_\_\_  
Its \_\_\_\_\_

**Institution Notary**

STATE OF WASHINGTON  
County of \_\_\_\_\_

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that (he/she) is authorized to act on behalf of \_\_\_\_\_, the Financial Institution which signed this instrument and acknowledged it to be the Institution's free and voluntary act for uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 20\_\_\_\_

Signature: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

My appointment expires: \_\_\_\_\_

**Developer Notary**

STATE OF WASHINGTON )

) ss.

COUNTY OF KING )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument on behalf of \_\_\_\_\_ for the uses and purposes mentioned in this instrument.

DATED: \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Printed Name of Notary Public)

Commission Expires: \_\_\_\_\_

**City Notary**

STATE OF WASHINGTON )

) ss.

COUNTY OF KING )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument on behalf of \_\_\_\_\_ for the uses and purposes mentioned in this instrument.

DATED: \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Printed Name of Notary Public)

Commission Expires: \_\_\_\_\_

**WHEN RECORDED RETURN TO:**

CITY CLERK  
CITY OF NORTH BEND  
920 SE Cedar Falls Way  
NORTH BEND, WA 98045

**REFERENCE NUMBER OF RELATED DOCUMENTS:**

GRANTOR:

GRANTEE: The City of North Bend, Washington

ASSESSOR'S TAX PARCEL/ACCOUNT NUMBER:

ABBREVIATED LEGAL DESCRIPTION:

## **EASEMENT AGREEMENT**

This Easement Agreement is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ ("Grantor") and the City of North Bend ("Grantee").

**1. Recitals.**

a. The Grantor is the owner of that certain real property legally described on the attached **Exhibit A**, which is incorporated herein by this reference ("Parcel A").

b. The Grantee is a municipal corporation of the state of Washington, and this Easement Agreement is for the benefit of Grantee.

c. This Easement Agreement sets forth the terms and conditions under which the Grantor will grant the Grantee an easement in the portion of Parcel A described below.

**2. Grant of Easement.** For valuable consideration, receipt and sufficiency of which is acknowledged, the Grantor warrants, grants, and conveys to the Grantee, a perpetual and exclusive easement over, across, and under that portion of Parcel A which is legally described on the attached **Exhibit B**, and depicted on **Exhibit C**, which are incorporated herein by this reference ("Easement Area").

3. Purpose of Easement. The Easement is granted for the purpose of the installation, operation, and maintenance of \_\_\_\_\_ (the "Improvements"). Grantee and its agents, designees, and/or assigns shall have the right at such times as deemed reasonably necessary by Grantee, to enter upon Parcel A to inspect, construct, reconstruct, operate, maintain, repair, and replace the Improvements.

4. General Provisions.

a. Binding Effect. This Easement Agreement shall be binding upon and inure to the benefit of the parties and their successors, heirs, assigns, and personal representatives and all persons claiming by, through or under the parties hereto. The Easement created shall run with the land.

b. Applicable Law. This Easement Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Jurisdiction over and venue of any suit arising out of or related to this Agreement shall be exclusively in King County, Washington.

c. Attorneys' Fees. In the event that any suit or other proceeding is instituted by either party to this Easement Agreement arising out of or pertaining to this Easement Agreement, including but not limited to filing suit or requesting an arbitration, mediation, or other alternative dispute resolution process, and appeals and collateral actions relative thereto, (collectively, "Proceedings"), the substantially prevailing party as determined by the court or in the Proceedings shall be entitled to recover its reasonable attorneys' fees, expert witness fees, and all costs and expenses incurred relative to such suit or Proceedings from the substantially non-prevailing party, in addition to such other relief as may be awarded.

d. Entire Agreement. This Easement Agreement contains the entire agreement between the parties with respect to this matter. It may not be modified except in writing signed by the party against whom enforcement of the modification is sought.

e. Waiver. The waiver by a party of a breach of any provision of this Easement Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by that party. No waiver shall be valid unless in writing and signed by the party against whom enforcement of the waiver is sought.

f. Severability. If for any reason any portion of this Easement Agreement shall be held to be invalid or unenforceable, the holding of invalidity or enforceability of that portion shall not affect any other portion of this Easement Agreement and the remaining portions shall remain in full force and effect.

g. Notices. Any notice required or desired to be given under this Agreement shall be deemed given if in writing delivered to the party, or sent by certified mail to the address listed below for that party:

# Council Packet August 1, 2023

CITY OF NORTH BEND  
DEA CONTRACT DOCUMENTS

GRANTOR:

GRANTEE:

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

GRANTOR: \_\_\_\_\_

GRANTEE: \_\_\_\_\_

STATE OF WASHINGTON      )  
                                  ) ss.  
COUNTY OF KING            )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the \_\_\_\_\_ of \_\_\_\_\_ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_

(Print: \_\_\_\_\_)  
NOTARY PUBLIC in and for the State of Washington  
My appointment expires \_\_\_\_\_

STATE OF WASHINGTON      )  
                                  ) ss.  
COUNTY OF KING            )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the \_\_\_\_\_ of \_\_\_\_\_

# Council Packet August 1, 2023

CITY OF NORTH BEND  
DEA CONTRACT DOCUMENTS

to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_

(Print: \_\_\_\_\_)

NOTARY PUBLIC in and for the State of Washington

My appointment expires \_\_\_\_\_

Return Address:

**CITY CLERK**  
**CITY OF NORTH BEND**  
**920 SE CEDAR FALLS WAY**  
**NORTH BEND, WA 98045**

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)**Document Title(s)** (or transactions contained therein): (all areas applicable to your document must be filled in)

1. Bill of Sale 2. \_\_\_\_\_  
 3. \_\_\_\_\_ 4. \_\_\_\_\_

**Reference Number(s) of Documents assigned or released:**

Additional reference #'s on page \_\_\_\_\_ of document

**Grantor(s)** Exactly as name(s) appear on document

1. \_\_\_\_\_, \_\_\_\_\_  
 2. \_\_\_\_\_, \_\_\_\_\_

Additional names on page \_\_\_\_\_ of document.

**Grantee(s)** Exactly as name(s) appear on document

1. City of North Bend  
 2. \_\_\_\_\_, \_\_\_\_\_

Additional names on page \_\_\_\_\_ of document.

**Legal description** (abbreviated: i.e. lot, block, plat or section, township, range)

Additional legal is on page \_\_\_\_\_ of document.

**Assessor's Property Tax Parcel/Account Number** **Assessor Tax # not yet assigned**

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

**"I am signing below and paying an additional \$50 recording fee (as provided in RCW 36.18.010 and referred to as an emergency nonstandard document), because this document does not meet margin and formatting requirements. Furthermore, I hereby understand that the recording process may cover up or otherwise obscure some part of the text of the original document as a result of this request."**

Signature of Requesting Party

Note to submitter: Do not sign above nor pay additional \$50 fee if the document meets margin/formatting requirements

**UPON RECORDING RETURN TO:**

City Clerk  
City of North Bend  
920 SE Cedar Falls Way  
North Bend, WA 98045

**BILL OF SALE**

---

**Reference Numbers of Related Documents:** N/A

**Grantor:** Otis Milam

**Grantee:** City of North Bend

**Legal Description:** See Attached

**Abbreviated Legal:**

**Tax Parcel Identification Number:**

**KNOW ALL MEN BY THESE PRESENTS** that for and in consideration of the sum of One Dollar (\$1.00) and other good and sufficient consideration, receipt whereof is hereby acknowledged, Otis Milam, ("Grantor"), does by these presents hereby grant, convey, set over, assign, transfer and sell to the City of North Bend, a Washington municipal corporation ("Grantee" or "the City"), the following described water distribution system, wastewater collection system, storm drainage system, curbs, and street paving, all of which has been constructed and installed in the existing public right of way or subdivision commonly known as Milam Sewer Extension ("Project"):

**Sewer Extension:** Approximately 210±/- linear feet of eight (8)-inch sewer mains and other applicable sewer system facilities and appurtenances located within the Developer's Property and within the existing public right-of-way.

Damage to any improvements in the road prism caused by failure to maintain landscape strips, street trees, sidewalks, street lights and/or associated facilities located outside the road prism shall be reconstructed, removed or replaced by the adjacent landowner.

Grantor warrants that it is the sole owner of all the property above described and has full power to convey all rights herein conveyed and agrees to defend, indemnify, and hold Grantee harmless from any and all claims which might result from execution of this document.

Grantor warrants that the property above described is free from all liens and encumbrances and Grantor will defend, indemnify, and hold harmless Grantee and its successors and assigns against claims and demands of all persons regarding ownership in or rights to the property hereby conveyed.

By accepting and recording this instrument, the City accepts and agrees to maintain only the property expressly conveyed herein, and to do so in the same manner as though it had been constructed by the City.

IN WITNESS WHEREOF the Grantor(s) has/have executed these presents this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

GRANTOR:

By: \_\_\_\_\_

Its: \_\_\_\_\_

GRANTEE:  
City of North Bend

By: \_\_\_\_\_

Its: \_\_\_\_\_

## Council Packet August 1, 2023

## **CITY OF NORTH BEND DEA CONTRACT DOCUMENTS**

**APPROVED AS TO FORM:**

Lisa Marshall, City Attorney

STATE OF WASHINGTON) )ss  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the \_\_\_\_\_ of \_\_\_\_\_ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_

(Stamp) \_\_\_\_\_

(Print: \_\_\_\_\_)

NOTARY PUBLIC in and for the State of Washington

My appointment expires \_\_\_\_\_

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STATE OF WASHINGTON)  
                                 )ss  
COUNTY OF KING            )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument on oath stated that (he/she) was authorized to execute the instrument and acknowledge it as the \_\_\_\_\_ of \_\_\_\_\_ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_

(Stamp) \_\_\_\_\_

(Print: \_\_\_\_\_)

NOTARY PUBLIC in and for the State of Washington

My appointment expires \_\_\_\_\_

**GENERAL CONDITIONS  
FOR EXTENSIONS CONSTRUCTED BY DEVELOPERS**

**1. SCOPE**

Set forth below are general conditions for extension of the City's water, sewer, stormwater systems, and streets by developers. Reference to or requirements for non-applicable conditions for any particular application will be construed to have no meaning relative to the performance of such work. All other conditions shall be strictly followed.

**2. DEFINITIONS**

The following terms, as used in developer extension agreement contract documents, shall be defined and interpreted as follows:

- A. "Agreement" shall mean the Agreement to Construct Extension to Sewer Systems entered into by the Developer and the City.
- B. "City" shall mean the City of North Bend, King County, Washington.
- C. "City Engineer or Public Works Director" shall mean the consulting engineer employed by the City or contracted by the City for the administration of this Agreement.
- D. "Contract Documents" shall have the meaning ascribed in the Agreement.
- E. "Developer" shall mean the person, partnership, firm, or corporation identified in the Checklist, and shall include Developer's agents, employees, and subcontractors.
- F. "Developer's Engineer" shall mean the engineering firm, and that firm's representatives, which may be approved by the City to act as the engineer for the Extensions to be performed under this Agreement.
- G. "Extensions" shall have the meaning ascribed in the Agreement.
- H. "Or Equal" shall mean any manufactured article, material, method, or work which, in the opinion of the City Engineer, is equally desirable or suitable for the purposes intended in the Specifications and the Contract Documents as compared with similar articles specifically mentioned therein.
- I. "Plans" shall mean all instructions, shop drawings, and other official drawings (and reproductions of the same) made or to be made pertaining to the Extensions or to any structure connected therewith, including supplemental instructions, drawings or

documents furnished by the City Engineer at Developer's request, which, in the City Engineer's sole discretion, are necessary for the proper construction of the Extensions, provided that all such supplemental drawings and instructions must be consistent with the Contract Documents.

J. "Specifications" shall mean the design specifications and criteria identified in the Standards for Preparation of Extension Plans and Specifications.

### **3. PLANS AND SPECIFICATIONS; OMISSIONS AND DISCREPANCIES**

Developer shall carefully study and compare all Plans and Specifications and other instructions and shall, prior to ordering material or performing work, report in writing to the City Engineer any error, inconsistency, or omission in respect to design, construction or cost which Developer may discover. If Developer, in the course of this study or in the construction of the Extensions, finds any discrepancy between the Plans, or any such errors or omissions in respect to design, construction, or cost in drawings or in the layout as given by points and instructions, it shall be Developer's duty to inform the City Engineer immediately in writing, and the City Engineer shall promptly check the same. Any work done after such discovery will be done at Developer's sole risk.

### **4. STATUS OF CITY ENGINEER**

A. Except for the method or manner of performing the work, the Extensions are to be constructed under the general supervision and to the complete satisfaction of the City Engineer, or his/her duly authorized representative, who shall use his/her reasonable discretion and professional experience as to the true interpretation and meaning of the project application, Plans, Specifications, and Estimates and as to all questions arising as to proper performance of the work. The City Engineer has the authority to stop work whenever, in his/her opinion, such stoppage may be necessary to ensure proper execution of the contract. The City Engineer may also reject all work and materials which in his/her opinion, do not conform to the contract.

B. The City Engineer shall use his/her reasonable discretion and professional experience to decide any and all questions which may arise as to the quality or acceptability of materials furnished and work performed and all questions as to the acceptable fulfillment and performance of the Agreement on the part of Developer. The decision of the City Engineer in such matters shall be final.

C. The City Engineer may direct the sequence of conducting work when it is in locations where the City is doing work either by contract or by its own forces or where such other work may be affected by the Extensions, in order that conflict may be avoided and the Extensions be harmonized with work under other contracts, or with other work being done in connection with, or growing out of, operations of the City. Nothing

in this Section 4(C) shall be interpreted to relieve Developer of its obligations or liabilities under the Contract Documents.

D. Neither the City Engineer nor his/her representatives have the authority to waive the Developer's obligation to perform work in accordance with the Contract Documents. However, the City Engineer shall have the authority to authorize minor field changes. Failure or omission on the part of the City Engineer or his/her representatives to condemn unsuitable, inferior, or defective work and/or labor or material or equipment furnished under the application shall not release Developer or his/her bond from performing the work in accordance with the Contract Documents.

**5. INSPECTION AND TESTS**

A. Inspection of the work by the City and its authorized agents shall be strictly for the benefit of the City, and nothing contained herein shall be construed to relieve Developer of its obligations under this Agreement.

B. The City Engineer and his/her representatives shall, at all times, have access to the Extensions for the purpose of inspecting and testing, wherever it is in preparation or progress, and Developer shall provide proper facilities for such access and for such inspection and testing.

C. If any work should be covered up without approval or consent of the City Engineer, it must, if required by the City Engineer, be uncovered for inspection at Developer's expense.

D. Re-examination of questioned work may be ordered by the City Engineer; and, if so ordered, the work shall be uncovered by Developer. If such work is found by the City Engineer to be in accordance with the Contract Documents, the City shall pay the cost of re-examination and replacement. If such work is found not in accordance with the Contract Documents, Developer shall pay such costs.

E. Developer shall make tests of the work as required by the City Engineer at Developer's expense and shall maintain a record of such test.

F. For a performance test to be observed by the City Engineer, Developer shall make whatever preliminary tests are necessary to assure that the materials and/or equipment are in accordance with the Specifications. If, for any reason, the test observed by the City Engineer is unsatisfactory, Developer shall pay all costs incurred by the City Engineer for the inspection and supervision of all further testing.

G. Where work is performed outside of the normal 40-hour work week, Developer shall pay City's additional costs for inspection and supervision, if applicable.

- H. Where the Plans, Specifications, City Engineer's instructions, laws, ordinances, or any government authority require any work to be specifically tested or inspected, Developer shall give the City Engineer timely notice of the date fixed for such inspection. Required certificates of inspection by authorities other than the City Engineer shall be secured by Developer and copies provided to the City Engineer.
- I. Inspection during construction will be provided as deemed necessary by the City Engineer.
- J. Written notice of deficiencies, adequately describing the same, shall be given to Developer upon completion of each inspection, and Developer shall correct these deficiencies within seven (7) days of notice thereof, or as agreed upon in writing by both parties, and before final inspection will be made by the City Engineer.
- K. A representative of Developer or Developer's contractor shall arrange a time with and accompany the City Engineer on the final inspection and subsequent inspections, if required, thereafter.
- L. Deficiencies discovered at the final inspection shall be corrected within seven (7) days' notice thereof or as agreed upon by both parties, and in no instance shall service be provided until said deficiencies are corrected and the extension passes re-inspection.
- M. All costs incurred by the City for inspection, including the fees and charges of its City Engineer, except as specifically provided for in this section, shall be paid by Developer, and a deposit for this may be required in advance by the City.
- N. Neither inspection nor acceptance by the City shall relieve Developer of any responsibility or liability, whether to the City or others, provided in the Contract Documents.

**6. PLANS AND SPECIFICATIONS ACCESSIBLE**

- A. The City shall furnish one (1) copy of Plans and Specifications to Developer, who shall keep at least one (1) copy of the same constantly accessible at the construction site.
- B. Where shop drawings are required to be submitted for acceptance, one (1) copy of the approved shop drawings shall be kept constantly accessible at the construction site.

**7. OWNERSHIP OF DRAWINGS**

All Plans, Specifications and copies thereof prepared or furnished to the City Engineer are his/her property. They are not to be used on other work and, with the exception of the signed Agreement, and are to be returned to him/her upon completion of the work.

**8. MATERIALS AND EQUIPMENT; MATERIALS AND EQUIPMENT LIST**

- A. Materials and equipment shall be new and as specified in the Contract Documents, or if not specified, shall be of a quality approved by the City Engineer. All materials and equipment furnished are warranted by Developer as new and as in compliance with the Plans and Specifications, if specified therein, and as suitable for the intended purpose. In addition thereto, the Developer shall furnish the City with copies of the supplier's warranty. Except in the event of fraud or bad faith by Developer, the warranty described in this Section 11(A) shall be limited to two (2) years.
- B. Developer shall file three (3) copies of its materials and equipment list with the City Engineer prior to commencing construction of the Extensions. This list shall include the quantity, manufacturer and model number, if applicable, of materials and equipment to be installed under the Contract Documents. This list will be checked by the City Engineer as to conforming with the Plans and Specifications. The City Engineer will pass upon the list with reasonable promptness, making note of required corrections.

Developer shall make any required corrections and file three (3) corrected copies with the City Engineer within one week after receipt of notice of required corrections. The City Engineer's review and acceptance of the lists shall not relieve Developer from responsibility for deviations from the Plans and Specifications or warranty for suitability for the intended purpose unless Developer has, in writing, called the City Engineer's attention to such deviations at the time of submittal and secured the City Engineer's written approval for such deviation.

**9. SHOP DRAWINGS**

All shop details, structural steel, pipe, machinery, equipment, schedules, bending diagrams, reinforcing steel, and other detail drawings furnished by the Developer, as required and provided for in the specifications. Developer shall check and verify all field measures. Developer shall submit with such promptness as to cause no delay in its own work or in that of any other contractor, three (3) copies, checked and approved by Developer, of all shop or setting drawings and schedules (all collectively herein referred to as "shop drawings") required for the work of the various trades in the construction of the Extensions or where requested by the City Engineer, and shall verify all field various trades in the performance of the work or where requested by the City Engineer and shall verify all field measurements or conditions to which the shop drawings are applicable. The City Engineer shall pass upon them with reasonable promptness making note of required corrections, including those related to design and artistic effect. Developer shall make any corrections required by the City Engineer and, within one (1) week after receipt of the notice of required corrections, shall file with the City Engineer three (3) corrected copies and furnish such other copies as may be needed by the City Engineer. The City

Engineer's acceptance of such drawings or schedules shall not relieve Developer from responsibility for deviation from drawings, Plans, or Specifications, unless Developer has, in writing, called the City Engineer's attention to such deviation at the time of submission and secured the City Engineer's written approval, nor shall it relieve Developer from responsibility for errors in shop drawings or schedules.

**10. CUTTING AND FITTING**

Developer shall do all cutting and fitting of its work that may be required to make any of the Extensions' several parts come together properly, and fit it to receive or be received by work of other developers or contractors shown or reasonably implied by the Plans and Specifications for the completed structure, and Developer shall restore all surfaces damaged by cutting and fitting as the City Engineer may direct.

**11. LABOR, MATERIALS, EQUIPMENT, FACILITIES, AND WORKMEN**

- A. Developer shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities necessary for the execution and completion of the work, except as otherwise stipulated in the Contract Documents.
- B. The Developer shall at all times enforce strict discipline and good order among its employees and shall not employ on the work any person unfit or not skilled in the work assigned to him/her. Employees or agents of Developer, who, in the opinion of the City Engineer, may impair the quality of the Extensions shall forthwith be discharged by Developer upon the written request of the City Engineer.
- C. During the term of the Agreement, neither party shall employ nor hire any employee of the other party, nor of the City Engineer, without the written consent of the other party. Neither party shall use any work performed or any information obtained from any employee hired in violation of this provision in making a claim against the other party.
- D. Necessary sanitation conveniences for the use of workmen on the job, properly secluded from public observation, shall be provided and maintained by Developer.

**13. SAMPLES**

The Developer shall furnish for approval all samples as directed by the City Engineer. The finished work shall be in accordance with approved samples. Approval of samples by the City Engineer does not relieve the Developer of performance of the work in accordance with the Contract Documents.

**14. DETERMINATION OF "OR EQUAL"**

The City Engineer shall make the determination regarding questions of "or equal" for any supplies or materials proposed by Developer. Developer shall pay to the City the cost of tests and evaluation by the City Engineer to determine acceptability of alternatives proposed by Developer, in accordance with Section 4 of the Agreement.

**15. ROYALTIES AND PATENTS**

Developer shall defend, indemnify, and hold the City harmless for all claims and/or suits brought against the City by reason of infringement of patent rights or licenses on any material, machine, appliance, or process that Developer may use on the work or incorporate into the finished job. Such indemnity shall include the costs of defense by an attorney selected by Developer and approved by the City.

**16. PAYMENT OF PREVAILING WAGES**

Developer does not have to pay prevailing wages on projects without City funding.

**17. PROTECTION OF WORK AND PROPERTY AND SAFETY**

- A. Developer shall continuously maintain adequate protection of the work from damage and shall protect City's property from injury or loss arising in connection with and during the term of the Agreement. Developer shall make good any such damage, injury, or loss, except as may be directly due to the negligence of agents or employees of the City. Developer shall provide and maintain all passageways, guard fences, lights, and other facilities for protection required by public authority or local conditions.
- B. Developer shall bear the risk of loss or damage for all finished or partially finished work until accepted by the City.
- C. Developer shall take all necessary precautions for the safety of employees on the work site and shall comply with all applicable provisions of federal, state, and local safety laws and building codes. Developer shall erect and properly maintain at all times, as required by the conditions and progress of the Extensions, all necessary safeguards for protection of workmen and the public, shall post danger signs warning against known or unusual hazards; and shall designate a responsible member of its organization on the construction site whose duty shall be the prevention of accidents. The name and position of such person so designated shall be reported in writing to the City Engineer by Developer.

**18. EXISTING UTILITIES OR OBSTRUCTIONS**

- A. Developer shall not enter upon or place materials on other private premises except by written consent of the individual owners, and Developer shall save the City harmless from all suits and actions of every kind and description that may result from its use of private property.
- B. Underground utilities of record shall be shown on the Plans insofar as it is possible to do so. These, however, are shown for convenience only, and the City assumes no responsibility for improper locations or failure to show utility locations on the construction plans. Any underground utilities found during the course of construction not properly shown on the Plans shall be recorded as to the nature, size, depth and orientation on the as-built drawings.
- C. Developer shall take adequate precautions to protect existing lawns, trees, shrubs, outside rights-of-way, sidewalks, curbs, pavements, utilities, adjoining property, and structures, and to avoid damage thereto caused by its operations to the satisfaction of the City Engineer, except as otherwise provided in the Contract Documents.

**19. REPLACING IMPROVEMENTS**

Whenever it is necessary in the course of construction to remove or disturb culverts, driveways, roadways, pipelines, monuments, property stakes, or other existing improvements, whether on private or public property, they shall be replaced to a condition equal to or better than that existing before they were so removed and disturbed.

**20. SUPERINTENDENCE AND SUPERVISION**

Developer shall keep on the construction site during the construction of the Extensions a competent superintendent and any necessary assistants, all satisfactory to the City Engineer. The superintendent shall not be changed except with the consent of the City Engineer unless the superintendent ceases to be in Developer's employ. The superintendent shall represent Developer, and all directions given to the superintendent shall be as binding as though given to Developer. Instructions to Developer shall be confirmed in writing upon its request in each case. Developer shall give efficient supervision to the work, using its best skill and attention.

**21. WARRANTIES OF DEVELOPER**

Upon completion of the Extensions and approval and acceptance thereof by the City, Developer warrants to the City as follows:

- A. That Developer is the owner of the property and the same is free and clear of all encumbrances and that Developer has good right and authority to transfer title

thereto to the City and will defend the title of the City against the claims of all third parties claiming to own the same or claiming an encumbrance against the same; and

B. That the Extensions are in proper working condition, order, and repair as designed and that they are adequate and fit for the intended purpose of use as water, sewer, stormwater, and/or street systems, and as integral parts of the water, sewer, stormwater, and/or street systems of the City; and

C. That all parts of the Extensions shall remain in proper working condition, order and repair as designed except where abused or neglected by the City; and that Developer shall repair or replace, at its own expense, any work or material which may prove to be defective during the period of this warranty. Developer shall obtain warranties and guaranties from its subcontractors and/or suppliers where such warranties or guaranties are specifically required herein and shall deliver copies of such to the City upon completion of the Extensions. When corrections of defects occurring within the warranty period are made, Developer shall further warrant corrected work for two (2) years after acceptance by the City.

Except in the event of fraud or bad faith by Developer, the warranty described in this Section 21 shall be limited to two (2) years.

## 22. **CORRECTION OF DEFECTS OCCURRING WITHIN WARRANTY PERIOD**

When defects occurring within the warranty period are discovered, Developer shall work to remedy any such defects within seven (7) days of notice of discovery thereof by the City, or as agreed upon in writing, and shall complete such work within a reasonable time as determined by the City. In emergencies, where damage or loss of service may result from delay, corrections may be made by the City immediately upon discovery; in which case the cost thereof shall be borne by Developer. In the event Developer does not commence and/or accomplish corrections within the time specified, the work shall be otherwise accomplished and the cost of same shall be paid by Developer.

Developer shall be responsible for any expenses incurred by the City resulting from defects in the Developer's work including actual damages, cost of materials, and labor expended by the City in making emergency repairs, and cost of engineering, inspection, and supervision by the City or City Engineer, as well as reasonable attorneys' fees and expert witness fees to be fixed by the court in any action which the City may commence against the Developer to enforce the provisions hereof.

## 23. **SUBLETTING AND SUBCONTRACTING**

Developer is fully responsible and liable to the City for the acts and omissions of its employees, subcontractors, and all other persons either directly or indirectly employed or contracted with by subcontractors. The City's consent to subcontracting part of the

work shall in no way release Developer from responsibility under the Agreement, and Developer will be held in all respects accountable for the same as if no consent had been given. Nothing contained in the Contract Documents shall create any contractual relation between any subcontractor and the City.

**24. SEPARATE CONTRACT; INTERFERENCE WITH OTHER DEVELOPERS**

The City reserves the right to perform work with its own forces or to let contracts for work under similar general conditions in connection with this project or other projects. Developer shall afford the City and other contractors reasonable opportunity for the execution of their respective work.

**25. LOSS OF MARKERS**

The City shall not be responsible for costs to relocate service ends in the event of removal or destruction of the markers by parties other than the City.

**26. DISPUTE RESOLUTION**

A. Process for Alternative Dispute Resolution. The parties shall cooperate in good faith and deal fairly in performing their duties under the Contract Documents in order to accomplish their mutual objectives and avoid disputes. If a dispute arises, the parties shall resolve all disputes by the following progressive alternative dispute resolution process:

1. The parties shall first seek a fair and prompt negotiated resolution.
2. If negotiation is not successful, either party may demand binding arbitration in accordance with RCW 7.04.060; provided, that within twenty (20) days of the initial arbitration demand, the parties shall attempt to resolve the dispute by nonbinding third-party mediation. Mediation efforts shall not delay or affect the arbitration hearing date unless agreed by the parties.
3. If the dispute is not resolved through mediation within forty-five (45) days of the initial arbitration demand, the parties shall proceed with the binding arbitration; provided, that the mediator shall prepare and deliver to the arbitrator a final written recommendation for resolution of the dispute.

B. Selection of Arbitrator. There shall be one arbitrator agreed upon by the parties, or, if the parties cannot agree on the identity of the arbitrator within ten (10) days of the initial arbitration demand, the arbitrator shall be selected by the administrator of the American Arbitration Association (AAA) office in Seattle from its Large, Complex Case Panel (or shall have similar professional credentials). The arbitrator shall be an attorney with at least fifteen (15) years' experience in the practice of law and shall

reside in the Seattle/King County metropolitan area. Whether a claim is covered by the Contract Documents shall be determined by the arbitrator. All statutes of limitations which would otherwise be applicable in a court of law shall apply to any arbitration proceeding hereunder. The mediator shall be selected by the same manner as the arbitrator.

- C. Procedures. The arbitration shall be conducted in accordance with the AAA Commercial Arbitration Rules in effect on the date of the initial arbitration demand, as modified by this Section 28. There shall be no dispositive motion practice. As necessary to ensure a fair hearing, the arbitrator may authorize limited discovery, and may enter pre-hearing orders regarding (without limitation) scheduling, document exchange, witness disclosure and issues to be heard. The arbitrator shall not be bound by the rules of evidence or of civil procedure, but rather may consider such writings and oral presentations as reasonable business people would use in the conduct of their day-to-day affairs, and may require the parties to submit some or all of their case by written declaration or such other manner of presentation as the arbitrator may determine to be appropriate. The parties intend to limit live testimony and cross-examination to the extent necessary to ensure a fair hearing on material issues.
- D. Hearing – Law – Appeal Limited. The arbitrator shall hold a private hearing within ninety (90) days of the initial arbitration demand and shall take reasonable measures to conclude the hearing within three (3) days. The arbitrator's written decision shall be issued not later than fourteen (14) calendar days after the close of the hearing. These time limits are included in order to expedite the proceeding, but they are not jurisdictional, and the arbitrator may for good cause afford or permit reasonable extensions, which shall not affect the validity of the award. The written decision shall contain a brief statement of the claim(s) determined and the award made on each claim. In making the decision and award, the arbitrator shall apply substantive law. Absent fraud, collusion or willful misconduct by the arbitrator, the award shall be final, and judgment may be entered in any court having jurisdiction over the parties. The arbitrator may award injunctive relief or any other remedy available from a judge, including the joinder of parties or consolidation of this arbitration with any other arbitration proceeding involving common issues of law or fact or which may promote judicial economy, but shall not have the power to award punitive or exemplary damages.
- E. Provisional Remedies. Pending selection of the arbitrator, either party may request the AAA to unilaterally appoint an interim arbitrator for the limited purpose of awarding temporary or preliminary relief. This award may be immediately entered in any federal or state court having jurisdiction over the parties even though the decision on the underlying dispute may still be pending. Once appointed, the official arbitrator may, upon request of a party, issue a superseding order to modify or reverse such temporary or preliminary relief or may confirm such relief pending a full hearing on the merits of the underlying dispute, which order may be immediately entered in any

federal or state court having jurisdiction over the parties, even though the decision on the underlying dispute may remain pending. Such relief may be granted by the arbitrator only after notice to and opportunity to be heard by the opposing party, unless the party applying for such relief demonstrated that its purpose would be rendered futile by giving notice.

F. Attorneys' Fees and Costs. The arbitrator shall award attorneys' fees, expert witness fees, and costs to the prevailing party, but only if the award to the prevailing party exceeds the mediator's recommendation. Except as otherwise provided in the Agreement, neither party is entitled to payment of its attorneys' fees by the other party for disputes resolved prior to a final decision of the arbitrator.

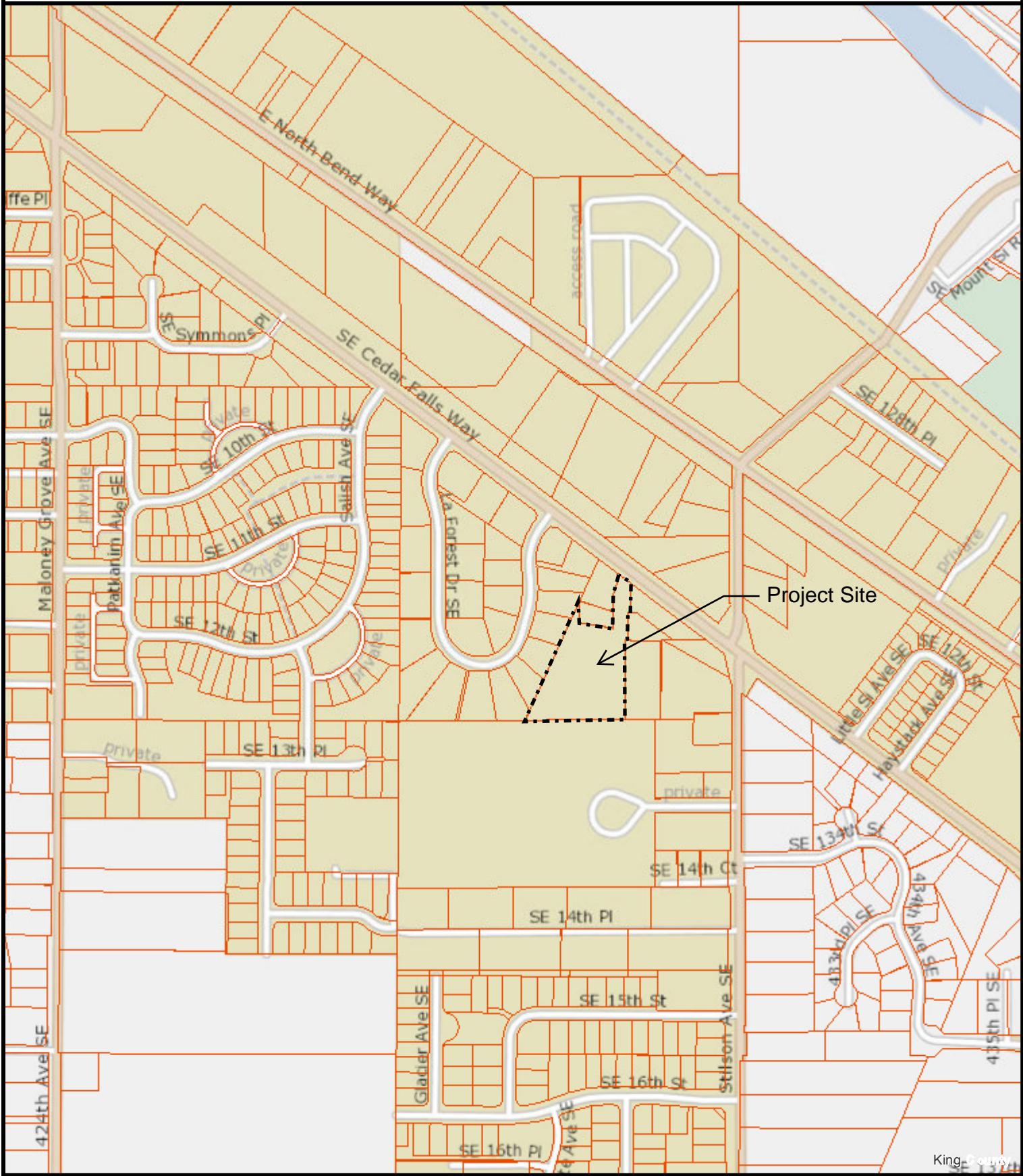
Nothing in this Section 28 shall affect Developer's responsibility to reimburse the City for attorney fees and legal expenses in the normal course of the Agreement.

## **CERTIFICATE(S) OF INSURANCE**



# Council Packet

## Vicinity Map - Milam Sewer Extension



The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice. King County makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. This document is not intended for use as a survey product. King County shall not be liable for any general, special, indirect, or consequential damages including, but not limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited except by written permission of King County.

Date: 7/12/2023

### Notes:



## King County





## City Council Agenda Bill

SUBJECT:	Agenda Date: August 1, 2023	AB23-093
<b>Motion to Confirm the Appointment of Kendra Rosenberg of Kenyon Disend, PLLC as City Attorney</b>	Department/Committee/Individual	
	Mayor Rob McFarland	
	City Administrator – David Miller	X
	City Attorney - Lisa Marshall	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Comm. & Economic Development – Rebecca Deming	
	Finance	
	Public Works – Mark Rigos	
<b>Attachments:</b> Professional Bio		
<b>SUMMARY STATEMENT:</b>		
The office of the City Attorney is referenced in North Bend Municipal Code Chapter 2.10. Subsection 2.10.020 Appointment states as follows:		
“The mayor shall appoint a duly qualified attorney at law to the office of city attorney. The appointment of the city attorney shall be confirmed by majority vote of the council. In addition to the city attorney, the mayor may appoint other qualified and licensed attorneys at law, including other city employees who are also qualified and licensed attorneys at law, to perform other legal services on behalf of the city.”		
The offices of Kenyon Disend have provided legal services to the City for City Attorney duties for over 20 years. Currently, Lisa Marshall serves as City Attorney and Lisa has added several cities to Kenyon’s portfolio and their office has recently added Kendra Rosenberg to their staff to handle the added workload. Kendra has served for the past six years as in house City Attorney for the City of Auburn, Washington. Prior to that Kendra served cities as legal counsel while employed by Kenyon Disend. She has decided to rejoin the firm and is available to meet the City’s demands for legal service as her primary duty. The Administration sees this as a positive option and is receptive to the firm’s suggestion that Kendra serve the City of North Bend as City Attorney. The City is in the process of receiving Requests for Proposals for City Attorney services and will be interviewing several firms with an anticipated start date in January, 2024. Kendra would serve as City Attorney in the interim. This can be accomplished by a motion vote as recommended in this Agenda Bill. Kendra’s background is outlined in the attached professional biography.		
<b>APPLICABLE BRAND GUIDELINES:</b> Consistent delivery of quality basic services.		
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b> none		
<b>RECOMMENDED ACTION:</b> <b>MOTION to approve AB23-093, confirming the Mayoral appointment of Kendra Rosenberg of Kenyon Disend, PLLC as City Attorney.</b>		
<b>RECORD OF COUNCIL ACTION</b>		
Meeting Date	Action	Vote
August 1, 2023		





## Kendra S. Rosenberg

phone: 425.392.7090 x 2205  
 Kendra@KenyonDisend.com

**Paralegal Contact**  
 Antoinette@KenyonDisend.com

### Experience & Practice Area

After previously working at Kenyon Disend, Kendra Rosenberg has returned to the firm as a partner to continue her passion to serve the firm's clients with quality legal work and integrity. She has been a practicing municipal attorney for more than 10 years. Prior to returning to Kenyon Disend, Kendra served as the in-house Auburn City Attorney.

After graduating from the University of Washington School of Law, Kendra started her legal career by serving as a Judicial Clerk to the Honorable David H. Armstrong (Ret.) at Division II of the Washington State Court of Appeals. Kendra has since dedicated her legal career to public service. Kendra has significant experience as a City Attorney and focuses on serving as a legal advisor and counselor for many Washington municipalities.

Kendra's practice has a special emphasis on employment and labor law, code enforcement, police-related issues, and real property law, including condemnation matters. She routinely negotiates a variety of municipal matters such as forfeitures, franchise agreements, and contract claims. Kendra regularly drafts legislation and policy updates. She prides herself in partnering with a variety of City staff including City leadership to identify risk and liability issues, propose solutions, and support the goals of her client municipalities.

Kendra has developed materials and given presentations on a variety of municipal topics including open government issues such as the Open Public Meetings Act and the Public Records Act, police legal updates, and public procurement and contracting law. Given her experience, she has also been asked to provide legal trainings to Washington mayors and city councilmembers.

Kendra now advises, counsels, and litigates on behalf of numerous Kenyon Disend municipal clients.

### Education

University of Washington School of Law, J.D., 2011  
 Willamette University, B.A., 2008

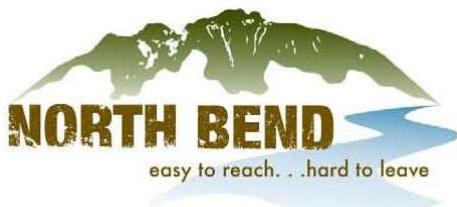
### Admitted to Practice

Washington, 2012

### Professional Activities

Washington State Association of Municipal Attorneys





# City Council Agenda Bill

SUBJECT:	Agenda Date: August 1, 2023	AB23-094
<b>Motion Authorizing Contract with FCS Group for Fiscal Sustainability Analysis</b>	Department/Committee/Individual	
	Mayor Rob McFarland	
	City Administrator – David Miller	X
	City Attorney – Lisa Marshall	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Comm. & Economic Development – Rebecca Deming	
Cost Impact: \$95,830	Finance	
Fund Source: General Fund	Public Works – Mark Rigos	
Timeline: Immediate		
<b>Attachments:</b> Professional Services Agreement		
<b>SUMMARY STATEMENT:</b>		
<p>The City of North Bend is in need of a long-term financial analysis of costs and revenues to assess the financial sustainability of services over time. In recent years the City has accomplished much to ensure that infrastructure investments occur to enable build out of the Comprehensive Plan. In preparation for the Comprehensive Plan update, and as a result of the agreement with Sallal Water Association to address water access in the east part of the City and the formation of a ULID to extend sewer to commercially zoned properties to the west, there is a critical need to understand development and fiscal impacts to ensure the City is in a strong, long-term financial position. To this end, FCS Group has submitted a scope of services to conduct a Fiscal Sustainability Analysis for North Bend. The Analysis will benefit the City by providing the following:</p> <ol style="list-style-type: none"><li>1. Understanding of market-supportable development potential within City boundaries</li><li>2. Documentation of existing and planned levels of services for major public utilities and services, including sewer, streets, police and fire services</li><li>3. Understanding of capital costs of new public infrastructure</li><li>4. Evaluation of sufficiency of existing operating revenue sources, and potential new revenue sources, to meet annual obligations of new infrastructure, operations and maintenance, and debt obligations</li><li>5. Strategies (e.g., capital needs and fiscal policies) and work plan for ensuring long-term economic and fiscal sustainability</li></ol>		
<p>Primary deliverables will include:</p> <ol style="list-style-type: none"><li>1. Financial pro-formas for geographies with significant economic development potential (e.g., east along North Bend Way, west in sewer ULID area) including infrastructure needs and associated costs</li><li>2. Financial model for each utility to assess general fund's current utility operating condition, remaining revenue capacities, and alternative financial assumptions</li><li>3. Identification of up to 5 alternative infrastructure scenarios and corresponding funding strategies and financial plans/forecasts, including revenues, expenses, and net financial impact on City operations</li><li>4. Financial model to quantify the potential infrastructure costs and expected economic benefits resulting from assumed levels of commercial and residential development.</li></ol>		
<b>APPLICABLE BRAND GUIDELINES:</b> Economic Viability / Balanced Budget		
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b> The Community & Economic Development Committee reviewed the contract and received an overview presentation from FCS Group on July 18, 2023. The CED Committee agreed to place this item on the Main Agenda.		

# City Council Agenda Bill

RECOMMENDED ACTION: **MOTION** to approve AB23-094, authorizing the Mayor to sign a contract with FCS Group for a Fiscal Sustainability Analysis, in a form and content approved by the City Attorney, in an amount not to exceed \$95,830.

## RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
August 1, 2023		

**PROFESSIONAL SERVICES AGREEMENT  
BY AND BETWEEN THE CITY OF NORTH BEND  
AND FCS GROUP**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into this 1<sup>st</sup> day of August, 2023, by and between the City of North Bend, a municipal corporation of the State of Washington (“City”) and FCS Group, a corporation (“Consultant”) in consideration of the mutual benefits and conditions contained herein.

WHEREAS, City has determined a need to have certain services performed for its citizens; and

WHEREAS, Consultant is in the business of performing such services, which are described below; and

NOW, THEREFORE, the parties hereby agree as follows:

1. **Scope of Services.** Consultant shall perform those services described on **Exhibit A** attached hereto, which is incorporated by this reference as if fully set forth. All such services will be rendered with the degree of skill and care exercised by members of Consultant’s profession practicing under similar circumstances at the same time and in the same or similar locale, and in compliance with all federal, state, and local statutes, rules, and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith.
2. **Compensation and Method of Payment.** Consultant will invoice City monthly based upon the fee schedule set forth in **Exhibit B** attached hereto, which is incorporated by this reference as if fully set forth. Consultant shall be paid a total amount not to exceed NINETY-FIVE THOUSAND EIGHT HUNDRED THIRY DOLLARS AND 00/100 (\$95,830) without written modification of this Agreement signed by City. City shall pay Consultant for services rendered under this Agreement within ten (10) days after City Council voucher approval. Consultant agrees to complete and return the attached **Exhibit C** (Taxpayer Identification Number) to City prior to or along with the first invoice.
3. **Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing August 1, 2023 and ending June 30, 2024 unless earlier terminated in accordance with Section 11 herein or extended by written amendment in accordance with Section 14 herein.
4. **Ownership, Form, and Use of Documents.** All documents, drawings, specifications, and other materials produced by Consultant in connection with the services rendered under this Agreement shall be the property of City whether the project for which they are made is executed or not. Except as otherwise stated in Exhibit A, Consultant shall provide to City all final documents, reports, or studies in printed and electronic form. Unless otherwise directed in writing by City, all final documents, reports, or studies shall be provided to City in both a PDF and Word format. Where applicable, all Complete Plan Set Drawings shall include all Specifications and shall be submitted to City in the most updated version of AutoCAD in an unrestricted format and in accordance with City Code. Consultant shall not be responsible for any use or modifications of said documents, drawings, specifications, or other materials by City or its representatives for any purpose other than the project specified in this Agreement.
5. **Independent Contractor.** City and Consultant agree that Consultant is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create an employer-employee relationship between the parties hereto. Neither

Consultant nor any of Consultant's employees shall be entitled, by virtue of the services provided under this Agreement, to any benefits afforded to City employees. City shall not be responsible for paying, withholding, or otherwise deducting any customary state or federal payroll deductions, including but not limited to FICA, FUTA, state industrial insurance, state workers' compensation, or for otherwise assuming the duties of an employer with respect to Consultant or Consultant's employees.

6. **Indemnification.** Consultant shall indemnify, defend, and hold harmless City, its officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Consultant and City, its officers, officials, employees, and volunteers, Consultant's liability hereunder—including the duty and cost to defend—shall be only to the extent of Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes Consultant's waiver of immunity under *Industrial Insurance*, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

7. **Insurance.** Consultant shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, or employees. Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit Consultant's liability to the coverage provided by such insurance, or otherwise limit City's recourse to any remedy available at law or in equity.

A. **Scope of Required Insurance.** Consultant shall maintain insurance of the types and coverage described below:

1. **Automobile liability insurance**, with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident, covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
2. **Commercial general liability insurance**, written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate, which shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent Consultants and personal injury and advertising injury. City shall be named as an additional insured under Consultant's Commercial General Liability insurance policy with respect to the work performed for City, using an additional insured endorsement at least as broad as ISO CG 20 26.
3. **Professional liability insurance** appropriate to Consultant's profession, written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
4. **Workers' compensation coverage** as required by the Industrial Insurance laws of the State of Washington.

- B. Additional Insurance Provisions. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII. Consultant's automobile liability and commercial general liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respects City. Any insurance, self-insurance, or self-insured pool coverage maintained by City shall be excess of Consultant's insurance and shall not contribute with it. Consultant shall provide City with written notice of any policy cancellation within two (2) business days of Consultant's receipt of such notice.
- C. Certificates of Insurance. Within fifteen (15) days of the execution of this Agreement, Consultant shall deliver original certificates and a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance coverage required by this Section 7.
- D. Failure to Maintain Insurance. Consultant's failure to maintain insurance as required shall constitute a material breach of this Agreement, upon which City may, after giving five (5) business days' notice to Consultant to correct the breach, immediately terminate this Agreement or, at its sole discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to City on demand, or at the sole discretion of City, offset against funds due Consultant from City.
- E. Full Availability of Consultant Limits. If Consultant maintains higher insurance limits than the minimums shown above, City shall be insured for the full available limits of Commercial General and excess or umbrella liability maintained by Consultant, irrespective of whether such limits maintained by Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to City evidences limits of liability lower than those maintained by Consultant.

**8. Recordkeeping and “Red Flag” Rules.**

- A. Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed pursuant to this Agreement. Consultant shall also maintain such other records as may be deemed necessary by City to ensure proper accounting of all funds contributed by City to the performance of this Agreement and of the parties' compliance with this Agreement.
- B. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with Chapter 40.14 RCW and by City.
- C. Consultant acknowledges receipt of and agrees to adhere to City's Identity Theft Prevention Program (“Red Flag” rules), a copy of which is attached hereto as **Exhibit D**.

**9. Taxes, Licenses and Permits.**

- A. Consultant shall procure and maintain a City business license in accordance with Chapter 5.04 NBMC, *Business Licenses and Business and Occupation Tax*, prior to beginning work under this Agreement. Consultant assumes responsibility for and ensures that all contractors, subcontractors and suppliers shall also obtain a City business license.

B. Consultant acknowledges that it is responsible for the payment of all charges and taxes applicable to the services performed under this Agreement, including taxes and fees assessed pursuant to Chapters 5.04 and 5.05 NBMC, and Consultant agrees to comply with all applicable laws regarding the reporting of income and maintenance of records, and with all other requirements and obligations imposed pursuant to applicable law. If City does not receive, or is assessed, made liable, or responsible in any manner for such charges or taxes, Consultant shall reimburse and hold City harmless from such costs, including attorneys' fees. Consultant shall also require all contractors, subcontractors and suppliers to pay all charges and taxes in accordance with this Section 9.

C. In the event Consultant fails to pay any taxes, assessments, penalties, or fees imposed by City or any other governmental body, then Consultant authorizes City to deduct and withhold and/or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. This provision shall, at a minimum, apply to taxes and fees imposed by City ordinance. Any such payments shall be deducted from Consultant's total compensation.

**10. Audits and Inspections.** The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit by law during the term of this Agreement. City shall have the right to conduct an audit of Consultant's financial statement and condition and to a copy of the results of any such audit or other examination performed by or on behalf of Consultant.

**11. Termination.** This Agreement may be terminated by City at any time upon thirty (30) days' written notice; provided, that if Consultant's insurance coverage is canceled for any reason, City shall have the right to terminate this Agreement as provided in Subsection 7(D) herein.

**12. Discrimination Prohibited.** Consultant shall not discriminate against any employee, applicant for employment, or any person seeking Consultant's services under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap.

**13. Assignment and Subcontract.** Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of City.

**14. Entire Agreement; Modification.** This Agreement contains the entire agreement between the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto. Proposed changes which are mutually agreed upon shall be incorporated by written amendments or addenda signed by both parties.

**15. Notices.** Notices required hereunder shall be delivered via certified U.S. mail to the addresses below:

To the City of North Bend:      David Miller, City Administrator  
    City of North Bend  
    920 SE Cedar Falls Way  
    North Bend, Washington 98045  
    Phone: (425) 888-1211

To Consultant: Todd Chase  
Principal/Economist  
FCS Group  
7525 166<sup>th</sup> Ave NE, Ste D-215  
Redmond, WA 98052  
Phone: 425-867-1802

**16. Security.** Consultant will protect confidential information provided by City pursuant to this Agreement by adhering to policies governing physical, electronic, and managerial safeguards against unauthorized access to an unauthorized disclosure of confidential information. Security standards shall meet or exceed Washington State Office of the Chief Information Officer Standard No. 141.10. Only authorized employees of Consultant shall have access to City's confidential information, and only for the purposes specified in this Agreement. Consultant shall, within 24 hours of discovery, report to City any use, access to or disclosure of City's confidential information not previously authorized by City.

**17. Applicable Law; Venue; Attorneys' Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly and exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its costs of suit, including attorneys' fees and expert witness fees.

BY THEIR SIGNATURES BELOW, the authorized agents of the parties enter into this Agreement as of the day and year first written above.

**CITY OF NORTH BEND**

By: \_\_\_\_\_  
Rob McFarland, Mayor

**FCS GROUP**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Attest/Authenticated:**

\_\_\_\_\_  
Susie Oppedal, City Clerk

**Approved As To Form:**

\_\_\_\_\_  
Lisa Marshall, City Attorney

**EXHIBIT A:**  
**SCOPE OF SERVICES**

Consultant shall furnish and perform services including, but not limited to, the description of work and deliverable items indicated below.

1. **Project Title:** Fiscal Sustainability Plan
2. **Supervising Staff.** Consultant's main point of contact at the City will be David Miller, City Administrator, who can be reached at 425-888-7626 or [dmiller@northbendwa.gov](mailto:dmiller@northbendwa.gov), or such other personnel as City may designate from time to time.
3. **Description of Work.** See attached Exhibit A-1
4. **Deliverable Items.** See attached Exhibit A-1

## EXHIBIT A-1



Firm Headquarters  
Redmond Town Center  
7525 166th Ave NE, Ste D-215  
Redmond, Washington 98052

Established in 1988  
Washington | 425.867.1802  
Oregon | 503.841.6543  
Colorado | 719.284.9168

# CITY OF NORTH BEND WA

## ESTABLISHING A STRATEGIC PLAN FOR LONG-TERM CITY ECONOMIC DEVELOPMENT AND FISCAL SUSTAINABILITY

### Project Background

The City of North Bend is one of the fastest growing cities in Washington State. For example, city residential population is expected to increase from 7,461 in 2020 to 8,770 by 2027, or an average increase of 2.5%/yr. Due to its convenient proximity to Interstate 90 and the major commercial centers in Seattle and Bellevue, the city is expected to continue to attract residents with well-paying jobs. As a result, the percentage of city residents within annual household income exceeding \$100,000 is expected to increase from 67% in 2022 to nearly 80% by 2027.

The City's 2023 Economic Development Action Plan (EDAP) outlined the following goals:

- Healthy, thriving businesses.
- Fiscal sustainability (City).
- Increasing housing opportunity.
- Leverage tourism/arts and culture/recreation opportunities.
- Increase walkability of downtown, commercial districts and neighborhoods.

The EDAP goes on further to identify the following five outcomes.

- A. Jobs/Housing balance.
- B. Increase and diversify economic base.
- C. Increase and diversify housing.
- D. Increase median household income.
- E. Increase net revenue to the City.

Based on discussions with the City leadership staff team (City Manager, Finance Director, Development Director), FCS GROUP is pleased to submit this proposed scope of services and budget to the **City of North Bend** to conduct an infrastructure development and funding strategy as part of an update to the City's Comprehensive Plan. FCS GROUP recently completed sewer/water utility rate modeling for the City and is currently engaged in a housing needs assessment for the City,

Exhibit 1. North Bend Households by Income, 2022 vs 2027 Projection

	2022 Estimate	2027 Projection
<\$15,000	180	107
\$15,000 - \$24,999	133	89
\$25,000 - \$34,999	75	53
\$35,000 - \$49,999	222	179
\$50,000 - \$74,999	216	117
\$75,000 - \$99,999	181	100
\$100,000 - \$149,999	598	582
\$150,000 - \$199,999	555	808
\$200,000 and Up	893	1,179

results of which will help to inform this study. The City has also prepared an economic development plan, results of which will also help to inform this study.

## Project Objectives:

To support the future growth of the City, this study is needed to identify current infrastructure conditions, levels of service, future growth potential and the financial requirements of the City to address future public facility needs.

**Study deliverables include:** (1) analysis of market-supportable development (growth) potential within the City's service area with focus on the two key areas of future development (e.g., east and west sides of the City); (2) documenting existing and planned levels of service for major public facilities provided by the City; (3) compiling the planned capital costs of providing new public infrastructure; (4) evaluating the sufficiency of existing operating revenue sources and identifying new sources to meet the total annual obligations of new infrastructure, including operation and maintenance (O&M) needs, debt obligations, capital needs and fiscal policies; and (5) preparing/presenting a work plan and strategy for addressing long-term economic and fiscal sustainability findings.

## TASK PLAN

### Task 1 | Project Initiation Meeting

A remote project initiation meeting will be scheduled to review of the scope of work, identify project objectives, expectations and deliverables, outline the project schedule and key milestone review points and discuss appropriate lines of communication.

City staff shall provide data input assumptions to be used in the study that will include items such as:

- Study subarea maps, existing customers and equivalent service units (ESUs), current and planned levels of service, growth assumptions, capital improvement costs, current budget documents, and background reports/studies/appraisals to be considered in this study.

**Task deliverables: Project initiation meeting, project schedule and study milestones, initial data request.**

### Task 2 | Current State and Gap Analysis

This task includes facilitating up to four (4) workshops with City staff and/or the City Council to establish a common understanding of the City's current state of economic and infrastructure development, what initiatives are in place or are planned to be in place, to achieve the goals and outcomes as outlined in the EDAP, and identify what gap remains.

**Task deliverables: Work sessions with City staff and City Council (up to 4 worksessions). FCS GROUP will conduct preliminary discussions with City staff to establish meeting agenda and objectives, and will facilitate each workshop accordingly.**

## Task 3 | Development Opportunities and Infrastructure Costs

Based on the input received from the City during Tasks 1 and 2, FCS will identify development opportunities and infrastructure costs within each area (eastside and westside). Individual area profiles will be prepared identifying existing and potential capital improvements, along with projected revenue, expenses, customer data and relative growth policy strategy. These data points will be reviewed, analyzed and validated and refined based on input from City staff.

***Task deliverables: Identify infrastructure opportunities and associated costs needed to fulfill the City's EDAP outcomes. FCS GROUP to prepare a mini-financial pro-forma for each area (eastside and westside).***

## Task 4 | Historical Budget vs. Actual Validation

FCS will review historical City financial documents, economic development plans, and other relevant documents to determine fiscal impact input variables (e.g., revenues received, and expenses incurred) and provide current variable assumptions for consideration by the City as a foundation for developing the multi-year revenue forecasts for each area.

***Task deliverables: Evaluate the City's current General Fund operating financial condition; identify current and remaining revenue capacities; and prepare financial model that will enable assessment of alternative financial assumptions.***

## Task 5 | Utility customer Revenue Validation

A comprehensive analysis and validation of each area's utility customer billing data (e.g., number of accounts) with revenue generation is critical to evaluating the fiscal impacts of utility infrastructure investments. The process includes reconciling individual customer data against actual revenues collected, data from which will be used to run revenue sensitivity analyses and provides the needed information for any future rate structure changes that the City may consider.

***Task deliverables: Evaluate the City's current utility operating financial condition; identify current and remaining revenue capacities for each utility; and prepare a financial model for each utility that will enable assessment of alternative financial assumptions. Outcome of the financial modeling under tasks 4 and 5 will be used to conduct the revenue sensitivity analysis as described in task 7 and funding strategies for alternative infrastructure scenarios.***

## Task 6 | Area Infrastructure Requirements

For each area, a revenue requirement sensitivity analysis will be conducted to help inform a sustainable, multi-year (up to 20-years) financial plan that fully funds the comprehensive needs of the City. Elements included in this plan:

- Capital infrastructure costs (renewals/replacements/improvements/upgrades)
- Expenses incurred to operate, maintain, and manage the system
- Existing and future debt repayment and reserves
- Fiscal impacts of acquiring the Sallal Water Association

- Utility system reinvestment
- Cash flow needs
- Fiscal policy achievement

***Task deliverables: Utilizing the information from the previous tasks and working closely with the City project team, FCS GROUP will identify the citywide revenue requirements required to achieve the outcomes of the EDAP. Coordinate with City staff to identify alternative infrastructure scenarios and their respective revenue requirements (up to 5 alternative scenarios).***

## Task 7 | Assessment of New Funding Resources

To assist with the understanding of how land use and financial policies or incentives impact development potential, FCS will identify potential techniques the city can utilize to leverage additional funding resources for infrastructure, and local incentives that can be used to help spur future development of attainable housing. This will include a preliminary analysis of potential new revenue sources such as: tax increment financing districts; local option real estate excise taxes, local option sales taxes, and utility local improvement districts. For each potential funding technique, FCS will prepare an evaluation that considers factors such as: revenue generation, funding restrictions, ease of implementation, cost of administration, impact on housing production, and overall market support.

FCS shall prepare a Technical Memorandum with a summary presentation in *MSPowerpoint* format.

***Task deliverables: For each revenue requirement scenario under task 6, prepare a funding strategy and financial plan. The financial plan will include the strategy to fund the identified infrastructure alternatives, as well as a financial forecast of the operating revenues, operating expenses, and net financial impact upon City operations.***

## Task 8 | Economic Development Model

FCS GROUP will prepare an interactive land-use based economic development model for use by city staff. This model will assist the City in understanding potential financial consequences of alternative levels of development and/or types of development (commercial and residential) that may occur within the City, particularly on the westside and eastside of the City. This model will help determine the relative fiscal impacts on the city's General Fund that are generated by new development based on the expected costs and revenues attributed to new development over at 20-year time frame.

***Task deliverables: FCS GROUP will prepare a model to quantify the potential infrastructure costs and expected economic benefits as a result of assumed commercial and residential development activity.***

## Task 9 | Project Team Review Meetings

FCS GROUP will facilitate up to six (6) remote staff project team meetings to review and discuss assumptions and interim findings. Additional meetings, if any, will be billed on time and materials

***Task deliverables: FCS GROUP will facilitate monthly project status reports with the City project team, discuss any upcoming deliverables, and discuss/resolve any outstanding questions or issues.***

## Task 10 | Workshops/Presentations

We propose two (2) workshops with the City Council.

- One (1) Workshop to present preliminary results and findings of the study.
- One (1) Workshop to present draft study recommendations based on initial council and stakeholder input.

***Task deliverables: FCS GROUP will prepare and present study findings, conclusions and recommendations to the City Council workshops. We anticipate two presentations – first to share preliminary findings and seek Council direction/input, and the second as follow-up to any direction received for additional research and analysis.***

## Task 11 | Documentation

An executive level written report documenting the financial plan and rate study process, methodology, key assumptions, results, and recommendations will be provided. Based on the findings from prior work tasks, FCS will prepare a summary graphic for each subarea that clearly communicates existing conditions, potential development opportunities, public facility investments and expected economic and fiscal benefits of future development.

***Task deliverables: FCS GROUP will prepare draft and final reports, and subarea graphics..***

## SCHEDULE

This study is expected to require approximately six (6) months to complete.

## BUDGET

The proposed budget is \$95,830, as outlined in the following table.

Task Detail	T.Chase Principal	M. Chaw Manager	TBD Analyst	Admin Support	Total Hours	Budget Estimate
2023 Hourly Billing Rates		\$290	\$230	\$170	\$95	
<b>Task Plan</b>						
Task 1 Project initiation meeting	2	6	2	0	10	\$2,300
Task 2 Current state and gap analysis (4 workshops x 2 hrs/ea)	8	8	8	0	24	\$5,520
Task 3 Development opportunities and infrastructure costs	6	16	24	0	46	\$9,500
Task 4 Historical budget vs actual	2	8	16	0	26	\$5,140
Task 5 Utility customer revenue validation	2	8	24	0	34	\$6,500
Task 6 Area infrastructure financial plans	6	16	28	0	50	\$10,180
Task 7 Assessment of new funding sources	8	16	24	0	48	\$10,080
Task 8 Economic development model	16	8	16	0	40	\$9,200
Task 9 Project review meetings (6)	12	12	12	0	36	\$8,280
Task 10 Council workshops (2)	6	6	6	0	18	\$4,140
Task 11 Documentation	14	16	32	40	102	\$16,980
Project administration	4	8	0	8	20	\$3,760
Monthly project check ins	5	7	7	0	19	\$4,250
<b>Total Tasks</b>	<b>91</b>	<b>135</b>	<b>199</b>	<b>48</b>	<b>473</b>	<b>\$95,830</b>
				Expenses		\$0
<b>Total Budget Estimate</b>						<b>\$95,830</b>

**EXHIBIT B:**  
**COMPENSATION**

## BUDGET

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Task 6 Area infrastructure financial plans	6	16	28	0	50	\$10,180
Task 7 Assessment of new funding sources	8	16	24	0	48	\$10,080
Task 8 Economic development model	16	8	16	0	40	\$9,200
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Project administration	4	8	0	8	20	\$3,760
Monthly project check ins	5	7	7	0	19	\$4,250
<b>Total Tasks</b>	<b>91</b>	<b>135</b>	<b>199</b>	<b>48</b>	<b>473</b>	<b>\$95,830</b>
				Expenses		\$0
				Total Budget Estimate		\$95,830

**EXHIBIT C:**  
**TAXPAYER IDENTIFICATION NUMBER**

CITY OF NORTH BEND  
920 SE Cedar Falls Way  
North Bend, WA 98045  
Phone: (425) 888-1211  
FAX: (425) 831-6200

In order for you to receive reimbursement from the City of North Bend, we must have either a Taxpayer Identification Number or a Social Security Number. The Internal Revenue Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires us to withhold 20% on reportable amounts paid to unincorporated persons who have not supplied us with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the City of North Bend before or along the submittal of the first billing voucher.

Please check the appropriate category:

Corporation       Partnership       Government Agency  
 Individual/Sole Proprietor       Other (please explain)

TIN#: \_\_\_\_\_

SS#: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_

**EXHIBIT D:****CITY OF NORTH BEND  
IDENTITY THEFT PREVENTION PROGRAM****I. PROGRAM ADOPTION**

The City of North Bend developed this Identity Theft Prevention Program (“Program”) pursuant to the Federal Trade Commission’s Red Flags Rule (“Rule”), which implements Sections 114 and 315 of the Fair and Accurate Credit Transactions Act of 2003. This Program was developed with the oversight and approval of the City’s Finance Director. After consideration of the size and complexity of the City’s operations and account systems, and the nature and scope of the City’s activities, the City Council determined that this Program was appropriate for the City, and therefore approved this Program by the adoption of Ordinance No.1351 on the 21 day of April, 2009.

**II. PROGRAM PURPOSE AND DEFINITIONS**

A. Fulfilling Requirements of the Red Flags Rule. Under the Red Flags Rule, every financial institution and creditor is required to establish an identity theft prevention program tailored to its size, complexity and the nature of its operation. The Program must contain reasonable policies and procedures to:

- Identify relevant red flags as defined in the Rule and this Program for new and existing covered accounts, and incorporate those red flags into the Program;
- Detect red flags that have been incorporated into the Program;
- Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and
- Update the Program periodically to reflect changes in risks to customers or to the safety and soundness of the City from identity theft.

B. Red Flags Rule Definitions Used in this Program. For the purposes of this Program, the following definitions apply:

**“Account”** means a continuing relationship established by a person with a creditor to obtain a product or service for personal, family, household or business purposes.

**“Covered account”** means:

1. Any account the City offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
2. Any other account the City offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the City from identity theft.

**“Creditor”** has the same meaning as defined in Section 701 of the Equal Credit Opportunity Act, 15 U.S.C. 1691a, and includes a person or entity that arranges for the extension, renewal or continuation of credit, including the City.

**“Customer”** means a person or business entity that has a covered account with the City.

**“Financial institution”** means a state or national bank, a state or federal savings and loan association, a mutual savings bank, a state or federal credit union, or any other entity that holds a “transaction account” belonging to a customer.

**“Identifying information”** means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including name, address, telephone number, social security number, date of birth, government passport number, employer or taxpayer identification number or unique electronic identification number.

**“Identity theft”** means fraud committed using the identifying information of another person.

**“Red flag”** means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

**“Service provider”** means a person or business entity that provides a service directly to the City relating to or in connection with a covered account.

### **III. IDENTIFICATION OF RED FLAGS**

In order to identify relevant red flags, the City shall review and consider the types of covered accounts that it offers and maintains, the methods it provides to open covered accounts, the methods it provides to access its covered accounts, and its previous experiences with identity theft. The City identifies the following red flags, in each of the listed categories:

**A. Notification and Warnings from Credit Reporting Agencies – Red Flags.**

- Report of fraud accompanying a credit report;
- Notice or report from a credit agency of a credit freeze on a customer or applicant;
- Notice or report from a credit agency of an active duty alert for an applicant; and
- Indication from a credit report of activity that is inconsistent with a customer’s usual pattern or activity.

**B. Suspicious Documents – Red Flags.**

- Identification document or card that appears to be forged, altered or inauthentic;
- Identification document or card on which a person’s photograph or physical description is not consistent with the person presenting the document;
- Other document with information that is not consistent with existing customer information (such as a person’s signature on a check appears forged); and
- Application for service that appears to have been altered or forged.

**C. Suspicious Personal Identifying Information – Red Flags.**

- Identifying information presented that is inconsistent with other information the customer provides (such as inconsistent birth dates);
- Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a driver’s license);
- Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
- Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
- Social security number presented that is the same as one given by another customer;
- An address or phone number presented that is the same as that of another person;

- Failing to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
- Identifying information which is not consistent with the information that is on file for the customer.

D. Suspicious Account Activity or Unusual Use of Account – Red Flags.

- Change of address for an account followed by a request to change the account holder's name;
- Payments stop on an otherwise consistently up-to-date account;
- Account used in a way that is not consistent with prior use (such as very high activity);
- Mail sent to the account holder is repeatedly returned as undeliverable;
- Notice to the City that a customer is not receiving mail sent by the City;
- Notice to the City that an account has unauthorized activity;
- Breach in the City's computer system security; and
- Unauthorized access to or use of customer account information.

E. Alerts from Others – Red Flag.

- Notice to the City from a customer, a victim of identity theft, a law enforcement authority or other person that it has opened or is maintaining a fraudulent account for a person engaged in identity theft.

**IV. DETECTING RED FLAGS**

A. New Accounts. In order to detect any of the red flags identified above associated with the opening of a **new account**, City personnel will take the following steps to obtain and verify the identity of the person opening the account:

- Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- Verify the customer's identity (for instance, review a driver's license or other identification card);
- Review documentation showing the existence of a business entity; and
- Independently contact the customer.

B. Existing Accounts. In order to detect any of the red flags identified above for an **existing account**, City personnel will take the following steps to monitor transactions with an account:

- Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- Verify the validity of requests to change billing addresses; and
- Verify changes in banking information given for billing and payment purposes.

**V. PREVENTING AND MITIGATING IDENTITY THEFT**

In the event City personnel detect any identified red flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the red flag:

A. Prevent and Mitigate Identity Theft.

- Monitor a covered account for evidence of identity theft;

- Contact the customer with the covered account;
- Change any passwords or other security codes and devices that permit access to a covered account;
- Not open a new covered account;
- Close an existing covered account;
- Reopen a covered account with a new number;
- Not attempt to collect payment on a covered account;
- Notify the Finance Director for determination of the appropriate step(s) to take;
- Notify law enforcement; or
- Determine that no response is warranted under the particular circumstances.

B. Protect Customer Identifying Information. In order to further prevent the likelihood of identity theft occurring with respect to City accounts, the City shall take the following steps with respect to its internal operating procedures to protect customer identifying information:

- Secure the City website but provide clear notice that the website is not secure;
- Undertake complete and secure destruction of paper documents and computer files containing customer information;
- Make office computers password protected and provide that computer screens lock after a set period of time;
- Keep offices clear of papers containing customer identifying information;
- Request only the last 4 digits of social security numbers (if any);
- Maintain computer virus protection up to date; and
- Require and keep only the kinds of customer information that are necessary for City purposes.

## **VI. PROGRAM ADMINISTRATION**

A. Oversight. The Finance Director or other designated city employee at the level of senior management shall be responsible for developing, implementing, and updating the Program.

The Finance Director shall also be responsible for the Program administration, for appropriate training of City staff on the Program, for reviewing the annual staff report required under the Program, as well as any other staff reports regarding the detection of red flags and the steps for preventing and mitigating identity theft, determining which steps of prevention and mitigation should be taken in particular circumstances, and considering periodic changes to the Program.

B. Staff Training and Reports. City staff responsible for implementing the Program shall be trained either by or under the direction of the Finance Director in the detection of red flags, and the responsive steps to be taken when a red flag is detected. Additionally, a compliance report shall be provided annually to the Finance Director. The annual compliance report shall at a minimum address the following:

1. The effectiveness of the City's policies and procedures in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
2. Service provider arrangements;
3. Significant incidents involving identity theft and the City's response; and
4. Recommendations for material changes to the Program.

C. Service Provider Arrangements. In the event the City engages a service provider to perform an activity in connection with one or more covered accounts, the City shall take the following steps to require that the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.

- Require, by contract, that service providers acknowledge receipt and review of the Program and agree to perform their activities with respect to City covered accounts in compliance with the terms and conditions of the Program and with all instructions and directives issued by the Finance Director relative to the Program; or
- Require, by contract, that service providers acknowledge receipt and review of the Program and agree to perform their activities with respect to City covered accounts in compliance with the terms and conditions of the service provider's identity theft prevention program and will take appropriate action to prevent and mitigate identity theft; and that the service providers agree to report promptly to the City in writing if the service provider in connection with a City covered account detects an incident of actual or attempted identity theft or is unable to resolve one or more red flags that the service provider detects in connection with a covered account.

D. Customer Identifying Information and Public Disclosure. The identifying information of City customers with covered accounts shall be kept confidential and shall be exempt from public disclosure to the maximum extent authorized by law, including RCW 42.56.230(4). The City Council also finds and determines that public disclosure of the City's specific practices to identify, detect, prevent, and mitigate identify theft may compromise the effectiveness of such practices and hereby direct that, under the Program, knowledge of such specific practices shall be limited to the Finance Director and those City employees and service providers who need to be aware of such practices for the purpose of preventing identity theft.

## **VII. PROGRAM UPDATES**

The Program will be periodically reviewed and updated to reflect changes in risks to customers and to the safety and soundness of the City from identity theft. The Finance Director shall at least annually review the annual compliance report and consider the City's experiences with identity theft, changes in identity theft methods, changes in identity theft detection and prevention methods, changes in types of accounts the City maintains and changes in the City's business arrangements with other entities and service providers. After considering these factors, the Finance Director shall determine whether changes to the Program, including the listing of red flags, are warranted. If warranted, the Finance Director shall present the recommended changes to the City Council for review and approval.