

1. CALL TO ORDER /PLEDGE OF ALLEGIANCE/ROLL CALL

2. CHANGES/ADDITIONS TO THE AGENDA

3. EXECUTIVE SESSION

4. AGENDA ITEMS

- A. Discussion: AHBL LAG Agreement (Acting Public Works/Community Development Director)
Estimated discussion time: 10 minutes
- B. Discussion: Employee Dishonesty-Crime Insurance Policy (Finance Director)
Estimated discussion time: 10 minutes
- C. Discussion: City Personnel Policy Amendment re: Maximum Vacation Accrual (Finance Director)
Estimated discussion time: 10 minutes
- D. Discussion: Amending Municipal Code re: Business and Occupational Tax and Administrative Provisions (Finance Director) Estimated discussion time: 10 minutes
- E. Discussion: Manager Form of Government (Council Committee) Estimated time: 10 minutes

5. ADJOURN

Please turn off cell phones during meeting and hold your questions for staff until the meeting has been adjourned.
The Council may consider other ordinances and matters not listed on the Agenda, unless specific notification period is required.
Meeting materials are available on the City's website at: www.cityofpacific.com or by contacting the City Clerk's office at (253) 929-1105.

CITY OF PACIFIC

DRAFT

Agenda Staff Report Sheet

Agenda Item No. Workshop Item A Meeting Date: February 28, 2013
Subject AHBL LAG Agreement Prepared by: Ken Barnett, Acting
Public Works Director

Summary: The City has started planning for the Milwaukee Road improvements, and is in need of engineer design firm to move forward with the design process. City Staff and Council reviewed the LAG Agreement presented to the City and have agreed to the terms. My final report will be available at Mondays meeting.

Recommendation: Staff recommends Council approval of Resolution No.

Motion for consideration: Move to approve Resolution No, a RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON AUTHORIZING AN AGREEMENT WITH AHBL

Budget Impact: Costs associated with this measure are paid from the Milwaukee Road grants.

Alternatives: None recommended.

Attachments: Resolution No, LAG Agreement

<h2 style="margin: 0;">Local Agency Standard Consultant Agreement</h2>	Consultant/Address/Telephone AHBL, Inc. 2215 N. 30th Street, Suite #300 Tacoma, WA 98403 (253) 383-2422
<input checked="" type="checkbox"/> Architectural/Engineering Agreement <input type="checkbox"/> Personal Services Agreement Agreement Number LAG7567	Project Title And Work Description Milwaukee Boulevard Improvements- Minor Widening Project
Federal Aid Number STPUL-1017(008)	
Agreement Type (Choose one) <input type="checkbox"/> Lump Sum Lump Sum Amount \$ _____ <input checked="" type="checkbox"/> Cost Plus Fixed Fee Overhead Progress Payment Rate _____ % Overhead Cost Method <input type="checkbox"/> Actual Cost <input type="checkbox"/> Actual Cost Not To Exceed _____ % <input checked="" type="checkbox"/> Fixed Overhead Rate <u>200.88</u> % Fixed Fee \$ _____ <input type="checkbox"/> Specific Rates Of Pay <input type="checkbox"/> Negotiated Hourly Rate <input type="checkbox"/> Provisional Hourly Rate <input type="checkbox"/> Cost Per Unit of Work	
DBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No _____ %	
Federal ID Number or Social Security Number 91-0915991	
Do you require a 1099 for IRS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Completion Date _____	
Total Amount Authorized \$ _____ Management Reserve Fund \$ _____ Maximum Amount Payable \$ _____	

Index of Exhibits (Check all that apply):

- | | |
|---|--|
| <input checked="" type="checkbox"/> Exhibit A-1 Scope of Work
<input type="checkbox"/> Exhibit A-2 Task Order Agreement
<input type="checkbox"/> Exhibit B-1 DBE Utilization Certification
<input checked="" type="checkbox"/> Exhibit C Electronic Exchange of Data
<input type="checkbox"/> Exhibit D-1 Payment - Lump Sum
<input checked="" type="checkbox"/> Exhibit D-2 Payment - Cost Plus
<input type="checkbox"/> Exhibit D-3 Payment - Hourly Rate
<input type="checkbox"/> Exhibit D-4 Payment - Provisional
<input checked="" type="checkbox"/> Exhibit E-1 Fee - Lump/Fixed/Unit
<input type="checkbox"/> Exhibit E-2 Fee - Specific Rates
<input checked="" type="checkbox"/> Exhibit F Overhead Cost
<input checked="" type="checkbox"/> Exhibit G Subcontracted Work
<input checked="" type="checkbox"/> Exhibit G-1 Subconsultant Fee | <input type="checkbox"/> Exhibit G-2 Fee-Sub Specific Rates
<input checked="" type="checkbox"/> Exhibit G-3 Sub Overhead Cost
<input checked="" type="checkbox"/> Exhibit H Title VI Assurances
<input checked="" type="checkbox"/> Exhibit I Payment Upon Termination of Agreement
<input checked="" type="checkbox"/> Exhibit J Alleged Consultant Design Error Procedures
<input checked="" type="checkbox"/> Exhibit K Consultant Claim Procedures
<input type="checkbox"/> Exhibit L Liability Insurance Increase
<input checked="" type="checkbox"/> Exhibit M-1a Consultant Certification
<input checked="" type="checkbox"/> Exhibit M-1b Agency Official Certification
<input checked="" type="checkbox"/> Exhibit M-2 Certification - Primary
<input checked="" type="checkbox"/> Exhibit M-3 Lobbying Certification
<input checked="" type="checkbox"/> Exhibit M-4 Pricing Data Certification
<input type="checkbox"/> App. 31.910 Supplemental Signature Page |
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THIS AGREEMENT, made and entered into this 31st day of January, 2013,
 between the Local Agency of City of Pacific, Washington, hereinafter called the "AGENCY",
 and the above organization hereinafter called the "CONSULTANT".

WITNESSETH THAT:

WHEREAS, the AGENCY desires to accomplish the above referenced project, and

WHEREAS, the AGENCY does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary services for the PROJECT; and

WHEREAS, the CONSULTANT represents that he/she is in compliance with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish Consulting services to the AGENCY,

NOW THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I General Description of Work

The work under this AGREEMENT shall consist of the above described work and services as herein defined and necessary to accomplish the completed work for this PROJECT. The CONSULTANT shall furnish all services, labor, and related equipment necessary to conduct and complete the work as designated elsewhere in this AGREEMENT.

II Scope of Work

The Scope of Work and projected level of effort required for this PROJECT is detailed in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT.

III General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress and presentation meetings with the AGENCY and/or such Federal, State, Community, City or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated.

The CONSULTANT, and each SUBCONSULTANT, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT, and each SUBCONSULTANT, shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT that may result in the termination of this AGREEMENT.

Participation for Disadvantaged Business Enterprises (DBE), if required, per 49 CFR Part 26, or participation of Minority Business Enterprises (MBE), and Women Business Enterprises (WBE), shall be shown on the heading of this AGREEMENT. If D/M/WBE firms are utilized, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made a part of this AGREEMENT. If the Prime CONSULTANT is a DBE firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY'S "DBE Program Participation Plan". The mandatory DBE participation goals of the AGREEMENT are those established by the WSDOT'S Highway and Local Programs Project Development Engineer in consultation with the AGENCY.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for this PROJECT, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this PROJECT, shall be without liability or legal exposure to the CONSULTANT.

IV Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY.

All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT under completion date.

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD or governmental actions or other conditions beyond the control of the CONSULTANT. A prior supplemental agreement issued by the AGENCY is required to extend the established completion time.

V Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided in Exhibit "D" attached hereto, and by reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A post audit may be performed on this AGREEMENT. The need for a post audit will be determined by the State Auditor, WSDOT External Audit Office and/or at the request of the AGENCY'S PROJECT Manager.

VI Sub-Contracting

The AGENCY permits sub-contracts for those items of work as shown in Exhibit "G" attached hereto and by this reference made part of this AGREEMENT.

Compensation for this sub-consultant work shall be based on the cost factors shown on Exhibit "G."

The work of the sub-consultant shall not exceed its maximum amount payable unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the sub-consultant shall be substantiated in the same manner as outlined in Section V. All sub-contracts shall contain all applicable provisions of this AGREEMENT.

With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. No permission for sub-contracting shall create, between the AGENCY and sub-contractor, any contract or any other relationship. A DBE certified sub-consultant is required to perform a minimum amount of their sub-contracted agreement that is established by the WSDOT Highways and Local Programs Project Development Engineer in consultation with the AGENCY.

VII Employment

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a

third party as a consequence of any act or omission on the part of the CONSULTANT'S employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of the contract, any professional or technical personnel who are, or have been, at any time during the period of the contract, in the employ of the United States Department of Transportation, or the STATE, or the AGENCY, except regularly retired employees, without written consent of the public employer of such person.

VIII Nondiscrimination

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest agrees to comply with the following laws and regulations:

Title VI of the Civil Rights Act of 1964
(42 USC Chapter 21 Subchapter V Section 2000d through 2000d-4a)

Federal-aid Highway Act of 1973
(23 USC Chapter 3 Section 324)

Rehabilitation Act of 1973
(29 USC Chapter 16 Subchapter V Section 794)

Age Discrimination Act of 1975
(42 USC Chapter 76 Section 6101 et seq.)

Civil Rights Restoration Act of 1987
(Public Law 100-259)

American with Disabilities Act of 1990
(42 USC Chapter 126 Section 12101 et. seq.)

49 CFR Part 21

23 CFR Part 200

RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "H" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "H" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT as shown in Exhibit "I" for the type of AGREEMENT used.

No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the Notice to Terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In such an event, the amount to be paid shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the work performed at the time of termination.

Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth above.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT'S failure to perform is without the CONSULTANT'S or it's employee's default or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

In the event of the death of any member, partner or officer of the CONSULTANT or any of its supervisory personnel assigned to the PROJECT, or dissolution of the partnership, termination of the corporation, or disaffiliation of the principally involved employee, the surviving members of the CONSULTANT hereby agree to complete the work under the terms of this AGREEMENT, if requested to do so by the AGENCY. This subsection shall not be a bar to renegotiation of the AGREEMENT between the surviving members of the CONSULTANT and the AGENCY, if the AGENCY so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the CONSULTANT, with the AGENCY'S concurrence, desire to terminate this AGREEMENT, payment shall be made as set forth in the second paragraph of this section.

Payment for any part of the work by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X Changes of Work

The CONSULTANT shall make such changes and revisions in the complete work of this AGREEMENT as necessary to correct errors appearing therein, when required to do so by the AGENCY, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under Section XIV.

XI Disputes

Any dispute concerning questions of fact in connection with the work not disposed of by AGREEMENT between the CONSULTANT and the AGENCY shall be referred for determination to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided, however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to de novo judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J", and disputes concerning claims will be conducted under the procedures found in Exhibit "K".

XII Venue, Applicable Law, and Personal Jurisdiction

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action shall be initiated in the Superior court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right of appeal from such decisions of the Superior court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior court of the State of Washington, situated in the county in which the AGENCY is located.

XIII Legal Relations

The CONSULTANT shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this AGREEMENT. This contract shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall indemnify and hold the AGENCY and the STATE and its officers and employees harmless from and shall process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from the CONSULTANT'S negligence or breach of any of its obligations under this AGREEMENT; provided that nothing herein shall require a CONSULTANT to indemnify the AGENCY or the STATE against and hold harmless the AGENCY or the STATE from claims, demands or suits based solely upon the conduct of the AGENCY or the STATE, their agents, officers and employees; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT'S agents or employees, and (b) the AGENCY or the STATE, their agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence (2) the costs to the AGENCY or the STATE of defending such claims and suits shall be valid and enforceable only to the extent of the CONSULTANT'S negligence or the negligence of the CONSULTANT'S agents or employees.

The CONSULTANT'S relation to the AGENCY shall be at all times as an independent contractor.

The CONSULTANT shall comply with all applicable sections of the applicable Ethics laws, including RCW 42.23, which is the Code of Ethics for regulating contract interest by municipal officers. The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT'S own employees against the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW.

Unless otherwise specified in the AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the PROJECT. Subject to the processing of a new sole source, or an acceptable supplemental agreement, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of the AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability and property damage insurance in an aggregate amount not less than two million dollars (\$2,000,000) for bodily injury, including death and property damage. The per occurrence amount shall not exceed one million dollars (\$1,000,000).
- C. Vehicle liability insurance for any automobile used in an amount not less than a one million dollar (\$1,000,000) combined single limit.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance secured by the CONSULTANT, the AGENCY will be named on all policies as an additional insured. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by the AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to the AGENCY.

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT'S professional liability to the AGENCY shall be limited to the amount payable under this AGREEMENT or one million (\$1,000,000) dollars, whichever is the greater, unless modified by Exhibit "L". In no case shall the CONSULTANT'S professional liability to third parties be limited in any way.

The AGENCY will pay no progress payments under Section V until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY and the STATE may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIV Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the AGENCY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment", hereafter referred to as "CLAIM", under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of the AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A) and (B) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XV Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XVI Federal and State Review

The Federal Highway Administration and the Washington State Department of Transportation shall have the right to participate in the review or examination of the work in progress.

XVII Certification of the Consultant and the Agency

Attached hereto as Exhibit "M-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "M-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "M-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "M-4" Certificate of Current Cost or Pricing Data. Exhibit "M-3" is required only in AGREEMENTS over \$100,000 and Exhibit "M-4" is required only in AGREEMENTS over \$500,000.

XVIII Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as an amendment to this AGREEMENT.

XIX Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept the AGREEMENT and agrees to all of the terms and conditions thereof.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

By _____ By _____

Consultant AHBL, Inc, Sean Comfort Principal Agency _____

Exhibit A-1

Scope of Work

Milwaukee Boulevard Improvements

AHBL, Inc.

EXHIBIT A-1
City of Pacific
Milwaukee Boulevard Improvements

AHBL
Scope of Work

January 30, 2013

INTRODUCTION

The following Scope of Work is prepared by AHBL, Inc. (CONSULTANT) for the City of Pacific (CITY), providing for Preliminary Engineering (PE), Plans, Specifications, and Estimates (PS&E) for the minor widening and resurfacing of Milwaukee Boulevard. The following Scope of Work details the work that will be provided by the CONSULTANT for the Milwaukee Boulevard Improvements project (PROJECT). This Scope of Work outlines the effort necessary to design the PROJECT, develop PS&E for the PROJECT. This Scope of Work does not provide for right-of-way acquisition, bidding or construction administration services by the CONSULTANT.

The PROJECT is Capital Improvement Project No. CIP ___-___. The PROJECT is funded by the City of Pacific, and FHWA sources. The PROJECT will be designed and administered in accordance with the Washington State Department of Transportation (WSDOT) Local Agency Guidelines, City of Pacific Municipal Code and standards, and City of Pacific design standards. Improvements to be included within the PROJECT are anticipated to be the following:

- Repair and/or replacement of existing sidewalk.
- Repair and/or replacement of existing curb and gutter.
- Removal and new patching of existing paved areas that have settled, heaved, or exhibited significant longitudinal cracking.
- Removal and replacement of existing driveways (which do not meet current City standards) to properties fronting Milwaukee Boulevard. Also included is the removal of one existing driveway and construction of curb, gutter, and sidewalk in its place.
- Removal and replacement of existing ADA ramps that are not constructed to current ADA standards. In addition, a ramp will be added at the end of the existing sidewalk on the east side of Milwaukee Boulevard south of 4th Avenue SE.
- Addition of new sidewalk.
- Revision of the curb and gutter profile where possible to provide improved drainage.
- Grind and overlay of existing pavement (entire road section).
- Adjustment of stormwater structures that have settled.

- Adjustment of utilities to grade as necessary.
- Addition of a closed drainage system.
- Pavement patching.
- Adjustment of utilities to grade as necessary.
- New striping.

In order to maximize available design funds, the PROJECT will utilize available a detailed project survey of the entire project limits and preliminary engineering documents both which have already been completed for the City of Pacific under separate contract. Typical roadway sections, summary of quantities, quantity tabs, and large scale drawings of the project showing work features, channelization plans, work zone traffic control plans, and performance based specifications will be utilized to create a PS&E package meeting the requirements of the Local Agency Guidelines, City of Sumner, and City of Auburn requirements.

This PROJECT is currently funded for the design phase only. Construction funding is anticipated to be available in early 2014. This Scope of Work provides for design of the entire PROJECT and preparation of one PS&E package for bidding purposes. Right-of-Way, Bidding and Construction phase services will be completed under separate contract or by CITY staff.

SCOPE OF WORK

Task 1.0 Management/Coordination/Administration

This task covers the effort required to manage the contract and assure that the PROJECT meets the client's expectations for schedule, budget, and quality of product. The CONSULTANT shall:

- 1.1 Provide professional engineering project management to complete design and PS&E.
- 1.2 Prepare and update a detailed project schedule.
- 1.3 Provide monthly progress reports in memorandum format to the CITY.
- 1.4 Provide monthly progress billing to the CITY.
- 1.5 Coordinate with CITY staff at monthly project meetings (estimated 6 meetings).
- 1.6 Provided QA/QC reviews of all submittals (30%, 60%, 90%, and PS&E submittals)

Products:

- Monthly progress memo and invoicing.
- Project schedule utilizing Microsoft Project.
- Meeting minutes for CONSULTANT/CITY meetings.
- QA/QC of all submittal packages.

Assumptions:

- The PROJECT will last approximately 6 months.
- The Consultant will coordinate with the WSDOT and the City of Pacific as necessary to facilitate the design and permitting of the portion of the PROJECT within the City of Pacific.
- The CITY will pay CONSULTANT and invoice Local Programs for reimbursement. CONSULTANT invoicing is not required to meet Local Program requirements.

Task 2.0 Environmental Permitting

This task covers the effort to coordinate with the CITY and other consultants, as necessary, for completion of the environmental permitting of the PROJECT. The CONSULTANT shall:

- 2.1 Review existing NEPA/SEPA Documentation
- 2.2 Prepare revised NEPA/SEPA Documentation

Products:

- NEPA/SEPA Documentation

Assumptions:

- The PROJECT meets requirements for categorical exclusion from NEPA.
- No Army Corps of Engineers permits will be required for the PROJECT.
- All environmental permitting (NEPA exclusion, jurisdictions determination, etc.) will be completed by other consultants authorized by the CITY under separate contract.

Task 3.0 Preliminary Design

This task provides for the completion of the 30% design effort identifying type, size, and locations of the improvements, followed by the 60% design effort documenting design decisions, as outlined in the WSDOT Design Manual. The work previously completed by the Consultant for the City of Pacific under separate contract will be utilized as a basis for completion of this work. The following issues will be addressed during the preliminary design:

- 3.1 Prepare plan sheets 1"=40' plan views per sheet, 16 sheets
- 3.2 Prepare 30%/60% Detail Sheets
- 3.3 Prepare 30%/60% Summary Memorandum
- 3.4 Prepare 30%/60% Cost Estimate
- 3.5 Prepare 30%/60% Outline Specifications
- 3.6 Quality Review (30%/60%)
- 3.7 Submittal 30%/60% to City and WSDOT for review
- 3.8 30%/60% Plan Revisions

Products:

Products produced for the preliminary design Scope of Work will include the entire length of proposed improvements as described above. At the end of the preliminary design scope, limits of phasing will be established. Construction documents are further described in the PS&E Section below.

- 30% design submittal shall include the following items:
 - Baseline Design Schedule
 - Preliminary horizontal alignment based on existing road centerline
 - Conceptual Drainage Plan
 - Memorandum outlining drainage concept and code requirements
 - 30% Engineer's Estimate
 - Preliminary typical cross sections
 - Preliminary Drainage Layout

- Preliminary Stormwater Design Report
 - Preliminary Geotechnical Recommendations
 - Preliminary Resurfacing Report
 - Preliminary utility relocation drawing, if required
 - Draft submittal 30% document for CITY and Local Programs review and comment
 - Final submittal of 30% document
- 60% design submittal shall include the following items:
 - Updated design schedule
 - Final horizontal alignment
 - Drainage layout
 - Final Stormwater Design Report
 - Utility coordination
 - 60% Engineer's Estimate
 - Preliminary construction notes
 - Roadway typical sections
 - Preliminary detail sheets
 - Finalized Geotechnical Recommendations
 - Final Resurfacing Report
 - Design Report
 - Draft submittal 60% document for CITY and Local Programs review and comment
 - Final Submittal 60% Documents

Assumptions:

- Preliminary design will be completed as one package with no phasing.
- Coordination with neighboring property owners and any Public Involvement will be completed by the CITY. The CONSULTANT will provide support with maps and details needed for public discussion/display at City Council meetings.
- Required modifications to existing Transportation Improvement Plan (TIP) will be completed by the CITY.
- The CITY will coordinate any needed utility relocations as part of franchise agreement, including preparation of letters and construction schedule for relocation, if required. CONSULTANT will be asked to provide support and drawings showing conflicts and relocations.
- Value Engineering and Cost Risk Assessment are not required for the PROJECT. If these items are needed, they will be authorized under separate contract or completed by the CITY.
- The PROJECT will be permitted as maintenance of an existing road. Flow control and water quality facilities will not be required as part of the PROJECT.
- 60% design will be accepted by CITY prior to starting the PS&E documents.
- No National Pollutant Discharge Elimination System (NPDES) permit will be required for the PROJECT.
- No deviations from standards will be required.

Task 4.0 Plans, Specifications, and Estimates (PS&E AD READY DOCUMENTS)

The CONSULTANT shall prepare PS&E for bid and award. The proposed improvements include the following:

- 4.1 Prepare 90% Engineering Plan and Profile Sheets
- 4.2 Prepare 90% Detail Sheets
- 4.3 Prepare 90% Cost Estimate
- 4.4 Prepare 90% Summary Memorandum
- 4.5 Prepare 90% project specifications utilizing WSDOT Standard Specifications for Road Bridge and Municipal Construction, WSDOT format, and applicable APWA specifications. The CONSULTANT will compile the specifications, including Division 1, for the CITY's review and concurrence.
- 4.6 Quality Review
- 4.7 Submittal 90% to City and WSDOT for review

Products:

- Draft 90% Bid Document submittal for CITY and Local Programs review and comment.
 - Updated Design Schedule
 - Final utility relocate plan, if required
 - 90% Engineer's Estimate with lump sum breakdown
 - 90% construction drawings. The following sheets will be included:
 - Cover Sheet
 - Summary of Quantities
 - Quantity Tabs
 - Structure Notes
 - Horizontal Control Plan
 - Resurfacing Plan
 - Storm Drainage Plan
 - Notes and Details
 - Applicable Standard Plans
 - Working Day Estimate (i.e., recommendation for number of working days)
 - 90% construction specifications
 - Preliminary PS&E Checklist
 - Plans to WSDOT for Review and Comment

Assumptions:

- Flow control and water quality facilities will not be required as part of the PROJECT.
- After the CITY has completed review of each submittal, major changes will not occur to the design for items that were shown on the submittal.
- Construction documents will be prepared based on LAG Manual requirements.
- The CITY will coordinate plan review and approval with Local Programs, as necessary, to facilitate the PROJECT being supplied a contract number necessary prior to advertising for construction.
- Applicable Work Zone Traffic Control Plans will be prepared by the Contractor.
- Right-of-Way, Bidding and Construction Phase services will be authorized under separate contact.

Q:\2012\2120428\Proposals_Contracts\Drafts\20130130_Exhibit_A1_Scope_Sean_2120428.10.docx

Exhibit C

Electronic Exchange of Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

- I. Surveying, Roadway Design & Plans Preparation Section
 - A. Survey Data
 - B. Roadway Design Files
 - C. Computer Aided Drafting Files
 - D. Specify the Agency's Right to Review Product with the Consultant
 - E. Specify the Electronic Deliverables to Be Provided to the Agency
 - F. Specify What Agency Furnished Services and Information Is to Be Provided
- II. Any Other Electronic Files to Be Provided
- III. Methods to Electronically Exchange Data
 - A. Agency Software Suite
 - B. Electronic Messaging System
 - C. File Transfers Format

Exhibit D-2

Payment (Cost Plus a Fixed Fee)

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, "Scope of Work." The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A. **Actual Costs:** Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, overhead, direct non-salary costs, and fixed fee.

1. **Direct Salary Costs:** The Direct Salary Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.
2. **Overhead Costs:** Overhead Costs are those costs other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the rate shown in the heading of this AGREEMENT under "Overhead Progress Payment Rate." Total overhead payment shall be based on the method shown in the heading of the AGREEMENT. The two options are explained as follows:
 - a. **Fixed Rate:** If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT for overhead at the percentage rate shown. This rate shall not change during the life of the AGREEMENT.
 - b. **Actual Cost:** If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT the actual overhead costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.

A summary of the CONSULTANTS cost estimate and the overhead computation is shown in Exhibit "E" attached hereto and by this reference made part of this AGREEMENT. When an Actual Cost method is used, the CONSULTANT (prime and all sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an overhead schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the overhead rate for billing purposes. It shall be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's overhead cost to reflect the actual rate.

Failure to supply this information by either the prime CONSULTANT or any of their sub-consultants shall cause the AGENCY to withhold payment of the billed overhead costs until such time as the required information is received and an overhead rate for billing purposes is approved.

The AGENCY, STATE and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual overhead rate, if they so desire.

3. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and sub-consultant costs.
 - a. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Cost"
 - b. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT.
 - c. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.
 - d. All above charges must be necessary for the services provided under this AGREEMENT.
4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in the heading of this AGREEMENT under Fixed Fee. This amount does not include any additional Fixed Fee, which could be authorized from the Management Reserve Fund. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."
5. Management Reserve Fund: The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed

the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."⁶ Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.

- B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the calculated overhead and fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct Salary, Direct Non-Salary, and allowable Overhead Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed salary costs for CONSULTANT employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the PROJECT at the time of the interview.
- C. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. The CONSULTANT has twenty (20) days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

- D. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY, STATE and the United States, for a period of three (3) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this contract is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

Exhibit E-1

Fee- Lump/Fixed/Unit

(backup)

Milwaukee Boulevard Improvements

AHBL, Inc.

1/17/2013

AHBL Staff Hours per Task
MILWAUKEE BOULEVARD IMPROVEMENTS

200.88%
29.23%

AHBL Overhead rate
Negotiated Fixed Fee

TASK 1	Work Task	CIVIL ENGINEERING										PLANNING								
		SC Prin	WF PM	MSK PE 4	AB PE 4	Sheri PA	Frank Tech 2	LK WP	LK Prin	BM PM	Total Task Hours	Total Task Cost (\$)								
	Through Design																			
1.1	Provide Professional Project Management		6		8															2
1.2	Prepare and Update Monthly Schedule		8		8		2													4
1.3	Provide monthly progress reports in memorandum format to the City		2		10		2													8
1.4	Provide monthly progress billing to the City		1		4															4
1.5	Coordinate with City Staff		1		4															4
1.6	Provide QA/QC reviews of all submittals (30%, 60%, 90%, and PS&E submittals)																			
Total		18.00	34.00	4.00	14.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6.00	
	Billing Rate	\$212.92/hr	\$137.29/hr	\$118.84/hr	\$103.16/hr	\$84.18/hr	\$85.70/hr	\$72.23/hr	\$174.63/hr	\$134.92/hr										
	Task Total - Civil	\$ 3,832.58	\$ 4,667.95	\$ 475.36	\$ 1,444.23	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 698.51	
	Task Total - Planning	\$ 10,420.12																	\$ 809.50	
	Task Total - Survey	\$ 1,508.01																		
	Task Total - Administration	\$ -																		
	Task Total - Coordination/Administration	\$ 11,928.13																		

TASK 2	Work Task	CIVIL ENGINEERING										PLANNING								
		SC Prin	WF PM	MS PE 4	AB PE 4	Sheri PA	Frank Tech 2	LK WP	LK Prin	BM PM	Total Task Hours	Total Task Cost (\$)								
2.1	Review existing NEPA/SEPA documentation																			
2.2	Prepare revised NEPA/SEPA documentation																			
Total		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	36.00	
	Billing Rate	\$212.92/hr	\$137.29/hr	\$118.84/hr	\$103.16/hr	\$84.18/hr	\$85.70/hr	\$72.23/hr	\$174.63/hr	\$134.92/hr										
	Task Total - Civil	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,856.97	
	Task Total - Planning	\$ 6,079.37																		
	Task Total - Survey	\$ -																		
	Task Total - Administration	\$ -																		
	Task Total - Coordination/Administration	\$ 6,079.37																		

TASK 3	Work Task	CIVIL ENGINEERING										PLANNING								
		SC Prin	WF PM	MS PE 4	AB PE 4	Sheri PA	Frank Tech 2	LK WP	LK Prin	BM PM	Total Task Hours	Total Task Cost (\$)								
3.1	Prepare plan sheets 1"=40' plan views per sheet, 16 sheets																			
3.2	Prepare 30%/60% Detail Sheets																			
3.4	Prepare 30%/60% summary memo																			
3.5	Prepare 30%/60% Cost Estimate																			
3.6	Prepare 30%/60% Outline Specifications																			
3.7	Quality Review (30% & 60%)																			
3.8	Submittal 30%/60% to City and WSDOT for review																			
3.9	30% & 60% Plan revisions																			
Total		2.00	7.00	4.00	88.00	4.00	72.00	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
	Billing Rate	\$212.92/hr	\$137.29/hr	\$118.84/hr	\$103.16/hr	\$84.18/hr	\$85.70/hr	\$72.23/hr	\$174.63/hr	\$134.92/hr										
	Task Total - Civil	\$ 425.84	\$ 961.05	\$ 475.36	\$ 9,078.03	\$ 336.71	\$ 6,170.15	\$ 144.46	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Task Total - Planning	\$ 17,591.59																		
	Task Total - Survey	\$ -																		
	Task Total - Administration	\$ -																		
	Task Total - Coordination/Administration	\$ 17,591.59																		

Exhibit F
Breakdown of Overhead Cost

Account Title	\$ Beginning Total	% of Direct Labor
Direct Labor	3,218,042.00	100.00%
Overhead Expenses:		
FICA	638,739.00	19.85%
Unemployment		
Health/Accident Insurance	735,450.00	22.85%
Medical Aid & Industrial Insurance		
Holiday/Vacation/Sick Leave	741,539.00	
Commission/Bonus/Pension	894,404.00	27.79%
Total Fringe Benefits	3,010,132.00	93.54%
General Overhead:		
State B&O Taxes	251,640.00	7.82%
Insurance	126,830.00	3.94%
Administration & Time Not Assignable	1,861,866.00	57.86%
Printing, Stationery & Supplies	53,059.00	1.65%
Professional Services	40,995.00	1.27%
Travel Not Assignable	24,929.00	0.77%
Telephone & Telegraph Not Assignable	96,152.00	2.99%
Fees, Dues & Professional Meetings	21,561.00	0.67%
Utilities & Maintenance	24,723.00	0.77%
Professional Development	8,512.00	0.26%
Rent	553,751.00	17.21%
Equipment Support	243,326.00	7.56%
Office, Miscellaneous & Postage	146,934.00	4.57%
Total General Overhead	3,454,278.00	107.34%
Total Overhead (General + Fringe)	6,464,410.00	200.88%
Overhead Rate (Total Overhead / Direct Labor)	200.88%	

Exhibit F

Overhead Cost

(backup)

Milwaukee Boulevard Improvements

AHBL, Inc.



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

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

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

September 28, 2011

Joyce Bell, Financial Manager
AHBL, Inc.
2215 North 30th St. Suite 300
Tacoma, WA 98403-3350

Re: AHBL, Inc. Overhead Schedule
Fiscal Year End December 31, 2010

Dear Ms. Bell:

On September 28, 2011, as a WSDOT representative, Jessica Johnson, Audit Specialist, completed a desk review of your proposed FYE December 31, 2010, Overhead Schedule. Jessica also reviewed the documentation provided by AHBL, Inc. during this review process.

The reviewed data included, but was not limited to; the schedule of the indirect cost rate, a description of the company, basis of accounting and description of AHBL, Inc.'s accounting system and the basis of indirect costs.

Based on our work, we are issuing this letter of review establishing AHBL, Inc.'s overhead rate for the fiscal year ending December 31, 2010, at 200.88% of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

Please check with the WSDOT Consultant Services Office (HQ) and/or the WSDOT Area Consultant Liaison to determine when this reviewed rate will be applicable to your WSDOT agreement(s).

Please remember that when you provide next year's overhead schedule to our office, you will also need to submit your *Compensation Analysis* for review. This analysis must be in compliance with the steps listed in the AASHTO Audit Guide, Chapter 7. We will need your *Compensation Analysis* in order to complete our review of your overhead schedule.

Ms. Bell
September 29, 2011
Page 2

If you or any representatives of AHBL, Inc. have any questions, please contact Martha Roach, Jeri Sivertson, or Steve McKerney at (360)705-7003.

Sincerely,



Martha S. Roach
Agreement Compliance Audit Manager

MR:ds
Enclosures

cc: Steve McKerney, Director of Internal Audit
Jeri Sivertson, Assistant Director of Internal Audit
Larry Schofield, MS 47323
File

AHBL, Inc.
Overhead Schedule
For the Year Ending December 31, 2010

Account	Financial Statement Amount	AHBL Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
Direct Labor	\$3,218,042				\$3,218,042	
Fringe Benefits:						
Health Care	\$705,912	(\$7,665)		O	698,247	21.70%
Disability Insurance	26,221				26,221	0.81%
Life Insurance	10,982				10,982	0.34%
Officer Life Insurance	11,896	(11,896)		N	0	0.00%
Bonuses	585,850		(462,025)	U	123,825	3.85%
Holiday	184,203				184,203	5.72%
Sick	102,044				102,044	3.17%
Vacation	455,292				455,292	14.15%
Pension & 401K	80,852				80,852	2.51%
Payroll Taxes	638,739				638,739	19.85%
Deferred Comp.	1,205,998	(391,345)		I	814,652	25.32%
Fringe Benefit Adjustment			(124,926)	V	(124,926)	-3.88%
Total Fringe Benefits	\$4,007,990	(\$410,907)	(\$586,951)		\$3,010,132	93.54%
General Overhead:						
Indirect Salaries	\$2,189,892	(\$21,291)	(\$464,717)	A,Z	\$1,703,884	52.95%
Bid and Proposal Labor			139,415	Z	139,415	4.33%
Advertising/Marketing	40,983	(40,983)		A	(0)	0.00%
Bank Charges	8,270	(8,270)		B	0	0.00%
Employee Relations	29,026	(27,220)	(1,438)	D,F,G,S,T,a	368	0.01%
Computer & Software	204,578				204,578	6.36%
Contributions	7,012	(7,012)		C	0	0.00%
Equipment Rental	38,748				38,748	1.20%
Depreciation/Amortization	105,927	(56,363)		Q,R	49,564	1.54%
Dues & Subscriptions	21,905	(345)		E,H	21,561	0.67%
Education	8,512				8,512	0.26%
Entertainment	22,074	(22,074)		E	0	0.00%
Insurance-General	131,533	(4,703)		L	126,830	3.94%
Office Supplies	74,377				74,377	2.31%
Parking/Auto Expenses	99,870	(33,244)	(49,476)	J,L,X,Y	17,151	0.53%
Postage	9,693				9,693	0.30%
Printing	53,528	(468)		A	53,059	1.65%
Professional Services	73,053	(32,057)		K,M	40,995	1.27%
Interest Expense	872	(872)		B	0	0.00%
Professional Registration	12,843				12,843	0.40%
Recruitment	90				90	0.00%
Temporary Help	18,567				18,567	0.58%
Rent/Utilities	563,722	(2,626)	(7,345)	P,W	553,751	17.21%
Repairs & Maintenance	24,723				24,723	0.77%

AHBL, Inc.
Overhead Schedule
For the Year Ending December 31, 2010

Account	Financial Statement Amount	AHBL Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
Taxes	251,640				251,640	7.82%
Telephone	96,152				96,152	2.99%
Travel	9,322		(1,544)	X	7,778	0.24%
Total General Overhead	<u>\$4,096,910</u>	<u>(\$257,528)</u>	<u>(\$385,104)</u>		<u>\$3,454,278</u>	<u>107.34%</u>
Total Overhead Costs	<u>\$8,104,900</u>	<u>(\$668,435)</u>	<u>(\$972,056)</u>		<u>\$6,464,409</u>	<u>200.88%</u>
Overhead Rate	251.86%	231.09%			<u><u>200.88%</u></u>	

AHBL, Inc.- Reviewed and Accepted 9/28/2011 JJ
"Overhead Rate still subject to WSDOT Audit"

References

AHBL, Inc. Adjustments:

AHBL, Inc. Overhead compiled internally by Joyce Bell, Financial Manager

- A Advertising unallowable per 48 CFR 31.205-1(f).
- B Interest unallowable per 48 CFR 31.205-20.
- C Contributions unallowable per 48 CFR 31.205-8.
- D Gifts unallowable per 48 CFR 31.205-13.
- E Entertainment unallowable per 48 CFR 31.205-14.
- F Alcoholic beverages unallowable per 58 CFR 31.205-51.
- G Local meals unallowable per 48 CFR 31.206-46(a)(2)(I) and WSDOT Accounting Manual
- H Lobbying unallowable per 48 CFR 31.205-22.
- I Deferred Comp unallowable per 48 CFR 31.205-6 (k).
- J Luxury vehicle and related expenses unallowable per CFR 31.201-2, 31.201-3 and 31.201-4
- K Unallowable legal fees per 48 CFR 31.205-3 & 31.205-27.
- L Cost of principal personal use of company leased vehicle, 25% removed by firm.
- M Settlement expenses unallowable per 48 CFR 31.201-4
- N Key persons life insurance unallowable per 48 CFR 31.205-19
- O Fringe Benefits estimate associated with the disallowed portion of Marketing Labor unallowable per 48 CFR 31.205-1(f) & AASHTO Audit Guide Ch. 8.13 & 8.24
- P Common Control Rent Adjustment per 48 CFR 31.205-36 (b) (3)
- Q Section 179 Unallowable
- R Re-organizational costs unallowable per 31.205-27(a)
- S Local meals unallowable per 48 CFR 31.205-14, WSDOT Audit Guide for Consultants CH. 6-Overhead Costs & WSDOT accounting Manual M13-82, Ch. 10, section 3.6-Meals
- T Gifts unallowable per 48 CFR 31.205-13.

WSDOT Adjustments

- U Anniversary bonus in the amount of \$7,025 and principal bonus in the amount of \$455,000 unallowable per 48 CFR 31.205-6(f) and 2010 AASHTO Audit Guide Ch. 7.12
- V Adjustment for fringe benefits associated with unallowable marketing in the amount of \$124,926 removed per 48 CFR 31.205-1 and 2010 AASHTO Audit Guide Ch. 7.12. Used an estimate for this review. See worksheet.

AHBL, Inc.
Overhead Schedule
For the Year Ending December 31, 2010

Account	Financial Statement Amount	AHBL Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
W	Adjustment in the amount of \$7,345 to reflect the amount on the common control worksheet. The firm's adjustment did not match the common control rent calculation of \$9,970.68					
X	Parking/auto expenses in the amount of \$3,222 and Travel/Hotel expenses in the amount of \$1,544 removed for lack of sufficient supporting documentation per 48 CFR 31.201-2(d)					
Y	Principal parking in the amount of \$11,580 and principal auto leases in the amount of \$34,673.61 unallowable per 48 CFR 31.201-2(d), 48 CFR 31.201-3 and 48 CFR 31.205-6(m)					
Z	Reclass bid and proposal labor in the amount of \$464,717. Removed from indirect labor and added as it's own line item per 48 CFR 31.205-18, CAS 420, and 2010 AASHTO Audit Guide Ch. 6.3. Used an estimate for this review. Of the \$464,717 business development labor, it is estimated that 30% is allowable B&P activities. $\$464,717 \times 30\% = \$139,415$.					
a	Company picnic and holiday party in the amount of \$1,438.03 unallowable entertainment per 48 CFR 31.205-14.					

Certification of Final Indirect Costs

Firm Name: AHBL, Inc.

Indirect Cost Rate Proposal: 231.45

Date of Proposal Preparation (mm/dd/yyyy): 07/28/2011

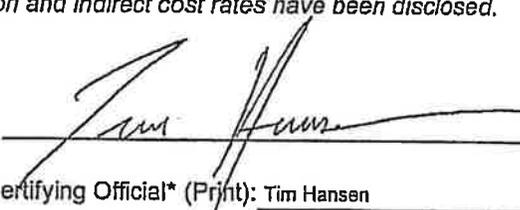
Fiscal Period Covered (mm/dd/yyyy to mm/dd/yyyy): 01/01/2010 to 12/31/2010

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1.) All costs included in this proposal to establish final indirect cost rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of title 48, Code of Federal Regulations (CFR), part 31.

2.) This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

Signature: 

Name of Certifying Official* (Print): Tim Hansen

Title: Chief Operating Officer

Date of Certification (mm/dd/yyyy): 09/27/2011

*The "Certifying Official" must be an individual executive or financial officer of the firm at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate for use under Agency contracts.

Ref. FHWA Directive 4470.1A available on line at:
<http://www.fhwa.dot.gov/legisregs/directives/orders/44701a.htm>

Exhibit G

Subcontracted work

Milwaukee Boulevard Improvements

**AMEC Environmental &
Infrastructure, Inc.**



January 15, 2013
91P-22000

AHBL, Inc.
2215 North 30th Street, Suite 300
Tacoma, WA 98403

Attention: Sean Comfort, P.E.

**Subject: Pavement Design Criteria Report
Milwaukee Boulevard Sidewalk Project
Pacific, Washington**

Dear Sean:

At your request, AMEC Environment & Infrastructure, Inc. (AMEC) is pleased to submit this proposal to conduct a geotechnical evaluation for the above-referenced project. The contents of this proposal are based on written/verbal information supplied by you; on our recent site visit; and on our knowledge of subsurface conditions in the site vicinity.

SITE AND PROJECT DESCRIPTION

The project site is Milwaukee Boulevard between Ellingson Road on the north and 5th Avenue SW on the south in Pacific, Washington. The two-lane arterial roadway is approximately 3,950 feet in length. The alignment is generally flat-lying, located within the Green River valley floodplain. Portions of the roadway are bordered by curb gutter and sidewalk. The asphalt – paved roadway exhibits areas of distress, and areas of differential settlement were noted along the curbs, sidewalks, and associated utilities.

Improvement plans call for completing the 2-lane roadway with curb, gutter and sidewalk along the entire roadway segment. Rehabilitation of the existing pavement is planned as part of the work. The design is being conducted in accordance with Chapter 43 of the WSDOT LAG Manual.

SCOPE OF WORK

Based on our understanding of the project and on our expectation of subsurface conditions at the site, we infer that our evaluation will need to address the following:

- Characterizing soil conditions along the roadway to a depth of 5 feet, for pavement design purposes; and

AMEC Environment & Infrastructure, Inc.
11810 North Creek Parkway N
Bothell, Washington 98011
(425) 368-1000 Phone
(425) 368-1001 Facsimile
www.amec.com

- Preparing a limited geotechnical report that provides pavement design criteria.

To address these geotechnical issues, we propose a scope of work comprising a field exploration, laboratory testing, geotechnical engineering analyses, and report preparation. Our specific tasks are described in the following sections. This scope of work does *not* include environmental sampling and testing if contaminated soils are encountered, but we could provide these services if requested. This scope does not include construction support services, but a proposal for these services can also be provided at your request.

Field Exploration

We propose to explore surface and subsurface conditions by reconnoitering the site and by advancing five borings, at strategic locations along the alignment. We tentatively estimate that exploration depths on the order of 5 feet below existing grades will be adequate to characterize soil and groundwater conditions. However, if the actual thickness of unfavorable soils is found to be significantly greater than anticipated, additional exploration depths might be necessary; in this event, we will notify you before continuing with our exploration. Our specific field exploration procedures and components are described in the paragraphs below.

Reconnaissance: Our site reconnaissance will be performed by an AMEC geologist or geotechnical engineer, who will walk the alignment to observe surface conditions. The purpose of this reconnaissance will be to collect information regarding the extent of distressed pavement that appears to require full depth restoration. At the same time, we will select locations to advance representative test borings. We will record our observations by means of notes and sketches, using the existing 50% design drawings provided by AHBL as a base map.

Borings: Our borings will be advanced with a hollow-stem auger, using a truck-mounted drill rig operated by an independent firm working under subcontract to AMEC. Throughout the drilling operation, soil samples will be obtained at 2½- or 5-foot depth intervals by driving split-spoon samplers in accordance with the Standard Penetration Test procedure (American Society for Testing and Materials [ASTM] D-1586) or similar method. Where soft or loose soils are encountered, additional samples might be obtained by pushing Shelby tube samplers. An experienced geologist or geotechnical engineer from AMEC will continuously observe the borings, log the subsurface conditions, collect representative soil samples, and transport all samples to our office for further visual examination and testing. After drilling, each borehole will be backfilled with a mixture of soil cuttings and bentonite, then the surface will be patched with concrete or asphalt (where appropriate).

Corings: Our pavement corings will be performed by the aforementioned drilling firm, using an auger-mounted coring tool. An AMEC geotechnical engineer or geologist will continuously observe the coring operation and log the composition and thickness of each pavement layer. Afterwards, we will patch all coreholes with asphalt or concrete (as appropriate).

Field Coordination: Before drilling, we will request the local utility locating service to mark any underground utilities at each exploration location, but additional assistance from City of Pacific and AHBL might be needed to identify all underground utilities. Upon arrival at the site, we assume that our equipment and crew will be given ready access to the work locations and that any necessary permits or rights-of-entry will have been obtained in advance by City of Pacific

and AHBL. During our field exploration, we will minimize disruption of ongoing business activities at the site. During our field exploration, we will use licensed flaggers to maintain two-way traffic flow along the roadway.

Site Restoration: We will exercise due care while working at the site, but it should be noted that some surface disturbance is unavoidable. These disturbances could include tire rutting, soil mounds, bare spots, slight subsidence, pavement roughness, and/or soft areas. Although we perform general clean-up and restoration tasks before leaving the site, complete restoration of these disturbed areas is *not* included in our scope of work.

Laboratory Testing

We propose to conduct a series of geotechnical laboratory tests on selected soil samples obtained from our explorations to evaluate the engineering and index properties of the site soils. These tests will likely include moisture content determinations and grain-size analyses on representative samples. In addition we will perform two California Bearing Ratio (CBR) tests on selected samples of the upper site soils for pavement design purposes. We normally store all samples for about 30 days after testing has been completed then discard them, unless prior arrangements are made for longer-term storage.

Pavement Design Analysis

To supplement our field exploration and laboratory testing programs, we propose to review various sources of geotechnical information concerning the project site. These sources will likely include geologic maps literature, and other published documents. Any available oil logs and laboratory test results associated with previous subsurface explorations performed on or near the site will also be reviewed. We will subsequently analyze all field exploration data, laboratory testing data, and research findings to develop conclusions and recommendations concerning the geotechnical aspects of the project.

If available, we will use traffic count data provided by AHBL, City of Pacific, the local school district and Metro King County to come up with a traffic count. If traffic counts are not available, we will use typical traffic counts for similar types of roadways agreed upon by AMEC, AHBL, and City of Pacific before proceeding with the pavement design. We will then conduct a pavement analysis and develop pavement design criteria in accordance with current WSDOT design criteria. This will include recommendations for a pavement section in areas where full depth restoration is required, as well as recommendations for other areas where only pavement grinding and overlay is planned.

Report Preparation

After analyzing the site conditions, we will prepare a *Geotechnical Pavement Design Criteria Report* for the project. Our report will include the following specific items:

- Site plan, showing approximate exploration locations on a base map supplied to us;
- Descriptive logs of our subsurface explorations;
- Results of our field and laboratory tests;

- Description of surface, soil, and groundwater conditions;
- Recommended asphaltic pavement section for full depth restoration;
- Recommended asphaltic pavement section for new pavement areas;
- Recommended asphalt overlay thickness where pavement grinding is planned;
- Recommendations for subgrade preparation beneath areas of planned pavement restoration, as well as sidewalk, curb and gutter areas;
- Comparison of recommended pavement criteria with minimum pavement sections of WSDOT and City of Pacific;
- Recommendations concerning structural fill;
- Recommendations for construction monitoring;
- Explanation of report limitations; and
- Recommendations for further geotechnical study, if warranted.

Unless you request otherwise, we will initially submit an electronic (pdf) draft (unsigned and unstamped) copy of our geotechnical report for review and comment by you and other design team members. We will then submit one electronic and three hard copies of the final (signed and stamped) report that addresses the review comments.

Post-Report Consultation

After submitting our report, we will be available for consultation regarding the geotechnical aspects of the project. This typically involves written correspondence, telephone conversations, and meetings with the design team; supplemental analyses due to design changes; and preliminary or informal reviews of design details, plans, and specifications. Although the actual level of our involvement cannot be accurately predicted, we anticipate that 8 hours of involvement by our project manager would accommodate most of the basic project needs and some of the supplemental design needs. Additional time would be required for services such as extensive analyses; numerous meetings or telephone conferences; and assistance with preparation of plans and specifications.

ESTIMATED COST AND SCHEDULE

AMEC services will be performed on a time-and-expenses basis according to the attached LAG Subconsultant Forms. We understand these will be attached to your negotiated subconsultant services agreement.

If adverse conditions arise during our evaluation, we will inform you as soon as possible and will perform no work beyond the authorized scope without your approval.

Upon receiving authorization to proceed with our evaluation, we can likely begin our fieldwork within one week, contingent on subcontractor availability. The fieldwork will require about two days, and lab testing and report preparation will require approximately three weeks. Consequently, we will submit our draft report about five weeks after your authorization. To

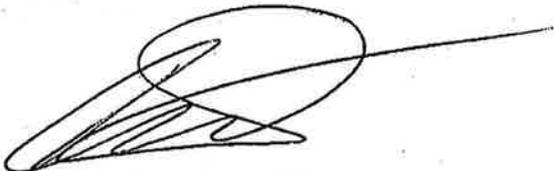
accelerate the design process, we can also provide verbal design information as our analyses progresses.

CLOSURE

We appreciate the opportunity to submit this proposal, and we look forward to serving your geotechnical needs. We understand this scope of services and accompanying exhibits will be attached to your subconsultant agreement or purchase order. Please understand the authorizing organization assumes ultimate responsibility for payment of our services. If you have any questions or need additional information, please feel free to contact our office.

Sincerely,

AMEC Environmental & Infrastructure, Inc.



Carlo F. Evangelisti, P.E.
Senior Geotechnical Engineer



James S. Dransfield, P.E.
Principal Geotechnical Engineer

Reviewed by

Stephen A. Siebert, P.E.

Associate

Attachments:

Exhibit G-1

Exhibit G-2

AMEC Audited overhead rate

Fixed Fee Calculation

Exhibit G -1
Subconsultant Fee Determination Summary Sheet
(mandatory when Subconsultants are utilized)

Project: MILWAUKE BOUVLEVARD IMPROVEMENTS- MINOR WIDENING

Subconsultant: AMEC Environmental & Infrastructure, Inc.

Direct Salary Cost (DSC)

Classification	Man Hours		Direct Labor		Cost
			Rate		
Principal (618 to 624)	11	X	69.95		769.45
Associate (617)	1	X	49.92		49.92
Senior Project Engineer (616)	25	X	41.62		1040.5
Senior Project Geologist (615)	30	X	41.89		1256.7
Project Engineer/Geologist (614)	0	X	38.03		0
Senior Staff Engineer/geologist (613)	0	X	32.1		0
Staff Engineer/Geologist (611 to 612)	0	X	31.37		0
CAD Drafting (516)	10	X	30.29		302.9
Word Processlong (806)	2	X	19.38		38.76
Clerical (805 to 807)	2	X	23.39		46.78
TOTA DSC					\$ 3,505.01

Overhead (OH Cost -- including Salary Additives)

OH Rate X DSC of 149.83% X \$ 3,505.01 = \$ 5,251.56

Fixed Fee (FF)

FF Rate x DSC of 29.23% X \$ 3,505.01 = \$ 1,024.51

Reimbursable

Field Expenses (mileage, Equipment, etc) \$ 193.00
 Subcontractor Expense (Driller, Traffic, Lab) 0% markup \$ 4,361.75

Total Reimbursables = \$ 4,554.75

Subconsultant Total \$ 14,335.83

Grand Total \$ 14,335.83

Exhibit G-1

Subconsultant Fee

Milwaukee Boulevard Improvements

**AMEC Environmental &
Infrastructure, Inc.**

EXHIBIT G-2 Subconsultant Fee Determination Summary Sheet

ACTUALS NOT TO EXCEED TABLE

Milwaukee Boulevard Sidewalk Project, Pacific, Washington

AMEC Environment & Infrastructure, Inc.
 11810 North Creek Parkway North
 Bothell, Washington 98011
 Prepared 1/15/2013
 Rates Valid through 12/31/2014



Class Code	Class Code Description	Direct Labor Rate NTE*	Overhead 149.83%	Fixed Fee 30%	All Inclusive Hourly Billing Rate
PROFESSIONAL LEVELS					
601	Professional Level 1	12.31	18.44	3.69	34.44
602	Professional Level 2	13.94	20.89	4.18	39.02
603	Professional Level 3	15.58	23.35	4.67	43.60
604	Professional Level 4	17.23	25.82	5.17	48.22
605	Professional Level 5	18.87	28.27	5.66	52.80
606	Professional Level 6	20.51	30.72	6.15	57.38
607	Professional Level 7	22.14	33.18	6.64	61.97
608	Professional Level 8	23.79	35.65	7.14	66.58
609	Professional Level 9	25.43	38.10	7.63	71.16
610	Professional Level 10	27.07	40.56	8.12	75.75
611	Professional Level 11	30.38	45.51	9.11	85.00
612	Professional Level 12	33.11	49.60	9.93	92.64
613	Professional Level 13	36.04	53.99	10.81	100.84
614	Professional Level 14	39.17	58.68	11.75	109.60
615	Professional Level 15	42.53	63.72	12.76	119.00
616	Professional Level 16	45.73	68.51	13.72	127.96
617	Professional Level 17	49.55	74.24	14.86	138.65
618	Professional Level 18	53.24	79.76	15.97	148.97
619	Professional Level 19	56.92	85.28	17.08	159.28
620	Professional Level 20	60.61	90.81	18.18	169.59
621	Professional Level 21	64.29	96.33	19.29	179.91
622	Professional Level 22	67.98	101.85	20.39	190.22
623	Professional Level 23	71.66	107.37	21.50	200.53
624	Professional Level 24	75.35	112.89	22.60	210.85
625	Professional Level 25	79.03	118.42	23.71	221.16
626	Professional Level 26	87.13	130.55	26.14	243.82
TECHNICAL LEVELS					
501	Technician Level 1	8.40	12.59	2.52	23.51
502	Technician Level 2	9.35	14.00	2.80	26.15
503	Technician Level 3	10.29	15.42	3.09	28.79
504	Technician Level 4	11.24	16.83	3.37	31.44
505	Technician Level 5	12.18	18.25	3.65	34.08
506	Technician Level 6	13.13	19.67	3.94	36.73
507	Technician Level 7	14.18	21.24	4.25	39.67
508	Technician Level 8	15.23	22.81	4.57	42.60
509	Technician Level 9	16.28	24.38	4.88	45.54
510	Technician Level 10	17.85	26.74	5.36	49.95

511	Technician Level 11	19.43	29.10	5.83	54.36
512	Technician Level 12	21.53	32.25	6.46	60.23
513	Technician Level 13	24.15	36.18	7.25	67.58
514	Technician Level 14	26.78	40.12	8.03	74.92
515	Technician Level 15	29.40	44.05	8.82	82.27
516	Technician Level 16	32.87	49.24	9.86	91.97
517	Technician Level 17	34.65	51.92	10.40	96.96
518	Technician Level 18	42.00	62.93	12.60	117.53
ADMINISTRATIVE LEVELS					
801	Administrative Level 1	9.63	14.43	2.89	26.94
802	Administrative Level 2	11.48	17.20	3.44	32.11
803	Administrative Level 3	13.32	19.96	4.00	37.29
804	Administrative Level 4	15.17	22.73	4.55	42.46
805	Administrative Level 5	17.02	25.50	5.11	47.63
806	Administrative Level 6	18.87	28.27	5.66	52.80
807	Administrative Level 7	21.50	32.22	6.45	60.17
808	Administrative Level 8	24.66	36.95	7.40	69.02
809	Administrative Level 9	27.83	41.69	8.35	77.86
810	Administrative Level 10	52.50	78.66	15.75	146.91

Labor rates below the Washington State Minimum Wage apply to employees in other states

* Direct Salary NTE rates include a 5% increase to cover annual salary increases

Exhibit G-3

Subconsultant Overhead Cost

Milwaukee Boulevard Improvements

**AMEC Environmental &
Infrastructure, Inc.**



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

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

July 23, 2012

AMEC Environment & Infrastructures, Inc.
Steve Ellis, Ph.D.
3500 188th Street SW, STE 600
Lynwood, WA 98037-4763

RE: AMEC Environment & Infrastructures, Inc. Overhead Schedule
Fiscal Year End December 31, 2011

Dear Mr. Ellis:

The Georgia Department of Transportation (GA DOT) has concluded their cognizant review of the audit of AMEC Environment & Infrastructures, Inc. Georgia is the cognizant State for AMEC Environment & Infrastructures, Inc. GA DOT accepted the audit performed by CPA Firm Sellers Richardson Holman & West, LLP. We were provided with their letter and a copy of the audit report.

Based on the cognizant state's review of the audit and acceptance of the AMEC Environment & Infrastructures, Inc. rate, we are issuing this letter of review establishing AMEC Environment & Infrastructures, Inc.'s overhead rate for the fiscal year ending December 31, 2011. The Company Wide Rate (Composite Rate) is 148.48% (rate includes Facilities Cost of Capital) of direct labor. Included within this rate are the Home Rate of 149.83% (rate includes Facilities Cost of Capital) of direct labor and the Field Rate of 86.51% (rate includes Facilities Cost of Capital) of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

	Home	Field	Composite
Overhead	145.43	82.11%	144.08%
G&A	<u>4.17%</u>	<u>4.17%</u>	<u>4.17%</u>
Total	149.60%	86.28%	148.25%
FCCM	<u>0.23%</u>	<u>0.23%</u>	<u>0.23%</u>
TOTAL	149.83%	86.51%	148.48%

Please check with the WSDOT Consultant Services Office (HQ) and/or the WSDOT Area Consultant Liaison to determine when this reviewed rate will be applicable to your WSDOT agreement (s).

Mr. Ellis
July 23, 2012
Page 2

Also, remember that when you provide next year's overhead schedule to our office, you will also need to submit **either** your internally prepared *Compensation Analysis* for our review, or use the *National Compensation Matrix* (NCM) format to prepare your alternate analysis and we will review that. The NCM is a tool that establishes compensation amounts presumed reasonable for certain executive positions. The *Compensation Analysis* and NCM are described further in the AASHTO Audit Guide, Chapter 7. We will need your *Compensation Analysis*, or alternative analysis based on use of the NCM, in order to complete our review of your overhead schedule.

If you, or any representative of AMEC Environment & Infrastructures, Inc., have any questions, please contact Martha Roach, Jeri Sivertson, or Steve McKerney at (360) 705-7003.

Sincerely,



Martha S. Roach
Agreement Compliance Audit Manager

MR:ds
Enclosure

cc: Steve McKerney, Director of Internal Audit
Jeri Sivertson, Assistant Director of Internal Audit
Larry Schofield, MS 47323
File

Keith Golden, P.E., Commissioner



GEORGIA DEPARTMENT OF TRANSPORTATION

One Georgia Center, 600 West Peachtree Street, NW
Atlanta, Georgia 30308
Telephones: (404) 631-1000

July 19, 2012

Hisham Mahmoud, Ph.D, P.E., President
AMEC Environment & Infrastructure, Inc. (Successor-in-Interest to AMEC E & I, Inc)
1105 Lakewood Parkway, Suite 300
Alpharetta, Georgia 30009

Dear Dr. Mahmoud :

We have performed a cognizant review of the audit, and supporting workpapers, of the Indirect Cost Rates of AMEC E & I, Inc (F/K/A MACTEC Engineering and Consulting, Inc) for the year ended December 31, 2011 in accordance with our role as Cognizant Agency as defined in 23 U.S.C. 112(b)(2)(c) and 23 CFR 172.3 and 172.7. The audit was performed by the independent CPA firm of Sellers Richardson Holman & West, LLP. The CPA represented that the audit was conducted in accordance with Government Auditing Standards as promulgated by the Comptroller General of the United States of America, and the audit was designed to determine that the indirect cost rates were established in accordance with Cost Principles contained in the Federal Acquisition Regulation, 48 CFR Part 31. Our cognizant review was performed in accordance with the AASHTO Review Program for CPA Audits of Consulting Engineer's Indirect Cost Rates.

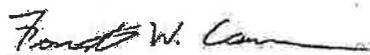
In connection with our cognizant review, nothing came to our attention that caused us to believe that the audit, and supporting workpapers for the Indirect Cost Rates, and the related Accountant's Report, we reviewed did not conform in all material respects to the aforementioned regulations and auditing standards. We recommend acceptance of the following rates:

Home Office: 149.60%
Field Office: 86.28%
Facilities Capital Cost of Money (FCCM): 0.23%

For State of Georgia projects, the above rates for 2011 are applicable until June 30, 2013 for proposal preparation, provisional overhead rates on current invoices, and adjustment of invoices for cost plus-fixed-fee contracts. Due to the subsequent events identified in note 11 of the CPA audit report, the above rates may be used by AMEC Environment & Infrastructure, Inc (Successor-in-Interest to AMEC E&I, Inc). We have also been provided a copy of the CPA's agreed upon procedures report dated February 20, 2012 on AMEC Environment & Infrastructure, Inc's forecasted 2012 Indirect Costs Rates of 166.34% Home Office & 107.62% Field Office.

If you have questions or concerns, please contact William Jones, Jr. at (404) 347-0314.

Sincerely,


Forrest W. Cameron, CPA
Audits Administrator

AMEC E&I, INC.

Schedule of Direct Labor, Fringe Benefits, and General Overhead (with Field Rate) Costs
Period Ended December 31, 2011

Account Description	Amount per General Ledger	Less Unallowable Costs	FAR Reference	Less Allocation to MDC	Total Proposed	Allocation	
						Field Office Costs	Home Office Costs
Direct Labor	\$ 95,463,120	\$ -		\$ -	\$ 95,463,120	\$ 2,042,194	\$ 93,420,926
Fringe Benefits							
Severance	\$ 221,024	\$ -		\$ 374	\$ 220,650	\$ 3,556	\$ 217,094
Other employee benefits	1,851,232	-		3,129	1,848,103	29,781	1,818,322
Tuition reimbursement	117,696	-		199	117,497	1,893	115,604
401k forfeitures	(151,942)	-		(257)	(151,685)	(2,444)	(149,241)
401k match	2,540,936	-		4,295	2,536,641	40,876	2,495,765
Health benefits	14,800,884	-		25,017	14,775,867	238,101	14,537,766
Holiday	2,130,906	-		(15,447)	2,146,353	48,218	2,098,135
Payroll taxes	12,851,895	71,942	31.201-1 ^(M)	21,722	12,758,231	206,748	12,551,483
Sick	2,351,900	-		3,975	2,347,925	37,835	2,310,090
Vacation	8,704,378	-		14,712	8,689,666	140,027	8,549,639
Workers comp	1,775,755	-		3,001	1,772,754	28,566	1,744,188
Total fringe benefits:	\$ 47,194,664	\$ 71,942		\$ 60,720	\$ 47,062,002	\$ 773,157	\$ 46,288,845
General Overhead							
Bid and proposal labor	\$ 8,104,546	\$ -		\$ 9,199	\$ 8,095,347	\$ 19,978	\$ 8,075,369
Marketing labor	13,576,084	1,284,298	31.201-1 ^(M)	21,556	12,270,230	67,250	12,202,980
Administrative labor	27,558,647	-		224,746	27,333,901	152,198	27,181,703
Training labor	1,406,804	-		178	1,406,626	28,744	1,377,882
Temporary external labor	212,735	-		328	212,407	-	212,407
Uncompensated overtime	(2,533,118)	-		(12,390)	(2,520,728)	(23,324)	(2,497,404)
Premium overtime	1,349,252	-		330	1,348,922	44,271	1,304,651
Bonus	35,747	35,747	31.205-6 ^(M)	-	-	-	-
Club dues	6,375	6,375	31.205-14 ^(M)	-	-	-	-
Employee advertising	4,384	-		-	4,384	-	4,384
Employee recruiting	386,407	99,100	31.205-6 ^(M)	2,723	283,584	500	283,084
Employee activity fund	57,230	57,230	31.205-13(b), 14 ^(M)	-	-	-	-
Employee internal relations	72,168	-		251	71,917	360	71,557
Employee relocation - taxable	55,860	-		-	55,860	-	55,860
Employee relocation - non taxable	35,242	-		-	35,242	1,392	33,850
Employee physicals	172,399	-		17	172,382	1,179	171,203
Employee meeting expense	12,840	-		7	12,833	-	12,833
Rent - office buildings	11,231,298	-		54,280	11,177,018	60,365	11,116,653
Rent - common area charges	1,607,941	-		5,323	1,602,618	7,835	1,594,783
Rent - real estate taxes	391,673	-		-	391,673	4,675	386,998
Rent - offsite storage	451,562	-		916	450,646	170	450,476
Rent - allocation	(173,045)	-		497	(173,542)	-	(173,542)
Office relocation expense	79,112	-		-	79,112	-	79,112
Facilities parking expense	33,907	-		-	33,907	-	33,907
Utilities	996,148	-		-	996,148	9,360	986,788
Maintenance	776,775	-		190	776,585	7,208	769,377
Professional liability insurance	4,019,110	-		(49,552)	4,068,662	139,603	3,929,059
General, property, and liability insurance	1,687,143	-		9,983	1,678,080	27,938	1,650,142
Bad debt expense	962,437	962,437	31.205-3 ^(M)	-	-	-	-
Computer hardware leases	39,535	-		-	39,535	-	39,535
Computer software	1,245,924	-		25,311	1,220,613	4,737	1,215,876

See accompanying notes to schedules.

AMEC E&I, INC.

Schedule of Direct Labor, Fringe Benefits, and General Overhead (with Field Rate) Costs
Period Ended December 31, 2011

Account Description	Amount per General Ledger	Less Unallowable Costs	FAR Reference	Less Allocation to MDC	Total Proposed	Allocation	
						Field Office Costs	Home Office Costs
Computer supplies	\$ 319,427	\$ -		\$ 320	\$ 319,107	\$ 4,669	\$ 314,438
Computer repair & maintenance	312,851	-		15,653	297,198	644	296,554
Unit price usage credit	(2,915,116)	-		(448)	(2,914,668)	(51,407)	(2,863,261)
Field equipment	550,812	-		-	550,812	1,578	549,234
Field equipment - repairs & maintenance	59,288	-		-	59,288	797	58,491
Office equipment	137,811	-		(166,035)	303,846	20,264	283,582
Office equipment - repairs & maintenance	1,848,937	60	31.205-1 ^M	102,292	1,746,585	-	1,746,585
Office supplies	793,040	-		2,412	790,628	5,873	784,755
Postage machine leases	125,081	-		892	124,189	1,197	122,992
IT support allocation	(44,835)	-		(91,758)	46,923	15,865	31,058
External reproduction	22,063	-		64	21,999	36	21,963
Lab equipment	8,578	-		-	8,578	-	8,578
Lab supplies	115,125	-		3	115,122	156	114,966
Postage	82,334	-		948	81,386	395	80,991
Freight	1,456	-		-	1,456	-	1,456
Express shipments	290,931	-		709	290,222	4,854	285,368
Base telephone service	898,348	-		6,533	891,815	-	891,815
Leased phone systems	87,528	-		(64)	87,592	4,586	83,006
Long distance - voice	216,285	-		1,049	215,236	-	215,236
Long distance - data	549,742	-		26,234	523,508	-	523,508
Conference calls	92,206	-		355	91,851	313	91,538
Cell phones	625,195	-		1,344	623,851	33,527	590,324
Pagers	879	-		-	879	-	879
Airfare	1,357,267	-		4,037	1,353,220	2,153	1,351,067
Lodging	750,167	88,896	31.201-2(d), 205-46 ^(M)	2,937	658,334	7,037	651,297
Meals	230,076	95,201	31.201-2(d), 205-46 ^(M)	775	134,100	1,766	132,334
Rental vehicles	256,791	-		639	256,152	1,495	254,657
Mileage	467,169	-		1,177	465,992	3,280	462,712
Other	248,895	-		594	248,301	622	247,679
Unallowable travel	100,831	100,831	31.205-46 ^(M)	-	-	-	-
Trucks - lease payments	871,443	-		2	871,441	63,780	807,661
Vehicle safety	146,895	-		-	146,895	10,258	136,637
Vehicle fuel	2,534,585	-		3,447	2,531,138	105,480	2,425,658
Vehicle - repairs & maintenance	1,002,883	-		100	1,002,783	50,528	952,255
Drill rig - repairs	71,895	-		-	71,895	-	71,895
Drill rig fuel	10,776	-		-	10,776	-	10,776
Advertising - media	24,955	24,955	31.205-1 ^(M)	-	-	-	-
Advertising - printing	23,814	23,814	31.205-1 ^(M)	-	-	-	-
Advertising - trade	90,209	90,209	31.205-1 ^(M)	-	-	-	-
Client entertainment	275,633	275,633	31.205-14 ^(M)	-	-	-	-
Marketing materials	19,451	19,451	31.205-1 ^(M)	-	-	-	-
Marketing meeting expense	38,737	28,546	31.205-1 ^(M)	11	10,180	-	10,180
Bid and proposal other	5,763	-		1	5,762	(143)	5,905
Unallowable marketing	200,903	200,903	31.205-1 ^(M)	-	-	-	-
Audit/accounting fee	388,418	11,955	31.205-27(a) ^(M)	9,465	366,998	-	366,998
Tax service fees	230,929	140,385	31.201-1 ^(M)	1,729	88,815	-	88,815
Consultant services	1,423,762	13,496	31.205-27(a) ^(M)	32,337	1,377,929	-	1,377,929
Computer consulting	(30,042)	-		492	(30,534)	-	(30,534)

See accompanying notes to schedules.

AMEC E&I, INC.

Schedule of Direct Labor, Fringe Benefits, and General Overhead (with Field Rate) Costs
Period Ended December 31, 2011

Account Description	Amount per General Ledger	Less Unallowable Costs	FAR Reference	Less Allocation to MDC	Total Proposed	Allocation	
						Field Office Costs	Home Office Costs
Legal	\$ 355,512	\$ -		\$ 9,069	\$ 346,443	\$ 600	\$ 345,843
Other outside services	498,945	39,666	31.201-2(d) ^{bl}	10,389	448,890	1,210	447,680
Professional license	133,966	-		83	133,883	604	133,279
Association dues - employee	41,385	-		123	41,262	-	41,262
Association dues - company	223,560	223,560	31.205-22 ^{bl}	-	-	-	-
Subscriptions/publications	140,660	-		(434)	141,094	1,223	139,871
Reference material fees	59,260	-		126	59,134	163	58,971
Quality assurance	192,211	-		(454)	192,665	12,989	179,676
Conferences and meetings	244,040	244,040	31.201-2, 205-14 ^{bl}	-	-	-	-
Training and seminar	354,084	-		1,007	353,077	8,018	345,059
Training materials and supplies	31,670	1,631	31.201-2(d) ^{bl}	407	29,632	190	29,442
Hazardous materials	8,239	-		-	8,239	-	8,239
Donations	5,150	5,150	31.205-8 ^{bl}	-	-	-	-
Political contributions	4,500	4,500	31.205-22 ^{bl}	-	-	-	-
Use tax	8,831	-		(3,411)	10,242	-	10,242
Business licenses	217,949	-		431	217,518	4,000	213,518
Personal property taxes	234,648	-		(4,692)	239,340	7,044	232,296
Taxes and licenses	243,607	-		2,148	241,459	77	241,382
Sales tax	12,626	-		-	12,626	-	12,626
Other expenses	(464,630)	(464,630)	31.205-1 ^{bl}	-	-	-	-
Design center transfer	(1,691)	-		-	(1,691)	57	(1,748)
Fines and penalties	22,285	22,285	31.205-15 ^{bl}	-	-	-	-
Late payment charges	3,948	3,948	31.205-15 ^{bl}	-	-	-	-
Discounts taken	(13,367)	-		-	(13,367)	-	(13,367)
Bank charges	235,433	-		-	235,433	-	235,433
Restructuring costs	2,124,904	2,124,904	31.205-27(a) ^{bl}	-	-	-	-
Head office charges	1,149,981	1,149,981	31.201-1 ^{bl}	-	-	-	-
Miscellaneous income	(20,464)	-		(58)	(20,408)	-	(20,408)
Depreciation - vehicles	28,241	-		-	28,241	70	28,171
Depreciation - equipment	1,026,764	-		8,972	1,017,792	10,734	1,007,058
Depreciation - furniture	90,220	-		17	90,203	435	89,768
Depreciation - buildings	70,147	-		-	70,147	-	70,147
Depreciation - leasehold improvements	347,088	-		2,742	344,346	11,191	333,155
Amortization of software	1,508,858	-		64,318	1,444,540	1,059	1,443,481
Interest expense	56	56	31.205-20 ^{bl}	-	-	-	-
Interest income	(6)	(6)	31.205-20 ^{bl}	-	-	-	-
Gain/loss on sale of fixed assets	(164,982)	-		-	(164,982)	-	(164,982)
Total general overhead	\$ 97,733,911	\$ 6,914,607		\$ 342,004	\$ 90,477,300	\$ 903,706	\$ 89,573,594
Total overhead costs	\$ 144,928,575	\$ 6,986,549		\$ 402,724	\$ 137,539,302	\$ 1,676,863	\$ 135,862,439
Overhead rate (% of direct labor)						82.11%	145.43%
Facilities capital cost of money (FCCM)						0.23%	0.23%
Total						82.34%	145.66%

See accompanying notes to schedules.

AMEC E&I, INC.

Schedule of Direct Labor, Fringe Benefits, and General Overhead (with Field Rate) Costs
Period Ended December 31, 2011

Notes:

- (a) Employer portion of OASDI tax on unallowable labor is disallowed.
- (b) Labor costs associated with general public relations, advertising, and other unallowable activities is disallowed.
- (c) Compensation not meeting general allowability requirements is disallowed.
- (d) Entertainment is disallowed.
- (e) Gifts are unallowable.
- (f) Bad debts arising from uncollectible accounts are disallowed.
- (g) Costs not supported by records adequate to demonstrate that costs have been incurred, are allocable to a contract, and comply with cost principles are disallowed.
- (h) Travel costs in excess of maximum per diem rates in effect at the time of travel are disallowed.
- (i) Advertising/marketing costs not explicitly stated as allowable are disallowed.
- (j) Costs associated with the reorganization of corporate structure are disallowed.
- (k) Tax service fees associated with work on federal research and development credits are disallowed.
- (l) Lobbying and political activity costs are disallowed.
- (m) Contributions and donations are disallowed.
- (n) Costs not generally associated with a contract or allowable activities are disallowed.
- (o) Intercompany management fees are disallowed.
- (p) Interest and other financial costs are disallowed.
- (q) Fines and penalties are disallowed.

AMEC E&I, INC.

Schedule of Direct Labor, Fringe Benefits, and General & Administrative Costs
Period Ended December 31, 2011

Account Description	Amount per General Ledger	Less Unallowable Costs	FAR Reference	Less Allocation to MDC	Total Proposed
Direct Labor	\$ 95,463,120	\$ -		\$ -	\$ 95,463,120
Fringe Benefits					
Severance	\$ 3,307	\$ -		\$ 193	\$ 3,114
Other employee benefits	27,698	-		1,617	26,081
Tuition reimbursement	1,761	-		103	1,658
401k match	35,744	-		2,087	33,657
Health benefits	221,452	-		12,931	208,521
Holiday pay	44,847	-		2,619	42,228
Payroll taxes	192,291	137	31.201-1 st	11,228	180,926
Sick	35,189	-		2,055	33,134
Vacation	130,235	-		7,605	122,630
Workers comp	26,569	-		1,551	25,018
Total fringe benefits	\$ 719,093	\$ 137		\$ 41,989	\$ 676,967
Other General and Administrative					
Marketing labor	\$ 53	\$ 5	31.201-1 st	\$ 3	\$ 45
Administrative labor	2,162,043	-		126,248	2,035,795
Training labor	287	-		17	270
Bonus	2,500	2,500	31.205-6 th	-	-
Employee related expenses	26,970	14,378	31.205-6 th	1,091	11,501
Facilities expenses	(159)	-		(9)	(150)
Casualties and professional liability	21,007	-		1,227	19,780
Equipment and supplies expense	11,475	-		670	10,805
Postage and freight	2,234	-		130	2,104
Telephone communication	28,420	-		1,660	26,760
Travel expense	136,317	190	31.205-4 th	7,960	128,167
Unallowable travel expense	8,235	8,235	31.201-2(d), 205-14, 46 th	-	-
Advertising expense	2,482	2,482	31.205-1 st	-	-
Marketing material	19,985	19,985	31.205-1 st	-	-
Professional services	470,275	26,000	31.201-2(d) nd	27,461	416,814
Training and development	46,025	19,215	31.201-2(d) nd	1,566	25,244
Other indirect expenses	214,035	35	31.201-2(d) nd	12,496	201,504
Depreciation expense	2,144	-		125	2,019
Amortization of intangibles	1,596,460	1,596,460	31.205-4 th	-	-
Amortization of software	16,713	-		976	15,737
Interest expense	2,925,124	2,925,124	31.205-20 th	-	-
Interest income	(7,623)	(7,623)	31.205-20 th	-	-
Deferred financing cost	300,587	300,587	31.205-20 th	-	-
Federal income taxes	(1,339,744)	(1,339,744)	31.205-41 st	-	-
State income taxes	208,609	-		12,181	196,428
State income tax - deferred	(133,351)	(133,351)	31.205-41 st	-	-
Foreign income taxes	222,234	-		12,977	209,257
Unit price usage credit	75	-		-	75
Total other general and administrative	\$ 6,943,412	\$ 3,434,478		\$ 206,779	\$ 3,302,155
Total general and administrative costs	\$ 7,662,505	\$ 3,434,615		\$ 248,768	\$ 3,979,122
General and administrative rate (% of direct labor)					4.17%
Facilities capital cost of money (FCCM)					0.23%
Total					4.40%

See accompanying notes to schedules.

AMEC E&I, INC.

Schedule of Direct Labor, Fringe Benefits, and General & Administrative Costs
Period Ended December 31, 2011

Notes:

- 14 Employer portion of OASDI tax on unallowable labor is disallowed.
- 15 Labor costs associated with general public relations, advertising, and other unallowable activities is disallowed.
- 16 Compensation not meeting general allowability requirements is disallowed.
- 17 Travel costs in excess of maximum per diem rates in effect at the time of travel are disallowed.
- 18 Costs not supported by records adequate to demonstrate that costs have been incurred, are allocable to a contract, and comply with cost principles are disallowed.
- 19 Advertising/marketing costs not explicitly stated as allowable are disallowed.
- 20 Federal income taxes and deferred state taxes are disallowed.
- 21 Costs for amortization of goodwill are disallowed.
- 22 Interest and other financial costs are disallowed.

AMEC E&I, INC.

Notes to Schedules

Subsequent events have been evaluated for potential recognition and disclosure through June 13, 2012, which represents the date the Schedules as listed in the accompanying table of contents were available for issuance.

Note 3. Description of Overhead Rate Structure

All costs are allocated based on direct labor cost. Certain costs incurred by AE&I support more than one operating entity. These expenditures are accumulated in costs centers maintained in the accounting system. These costs centers are allocated based on defined allocation bases. This practice is consistent with the disclosure statements.

Note 4. Field Offices

A field overhead pool has been created for unique arrangements on a contract. This pool is generally applicable for long-term, full-time work assignments when AE&I's personnel are provided an office work space by the customer as their primary work station, and AE&I personnel work in the provided space rather than an alternate work location. The customer provides facilities outfitted with the necessary equipment to perform the intended work. This typically includes, but is not limited to, furniture, phones, internet, reproduction capability, network support, postage, and transportation required to transit the site. This pool is developed within the guidelines published in the *American Association of State Highway and Transportation Officials (AASHTO) Uniform Audit and Accounting Guide*.

Note 5. Description of Labor-Related Costs

Project Labor

AE&I charges labor to projects using actual labor rates.

Paid Time Off

Paid vacation and sick leave are recorded in the Schedules. Employees who terminate are paid for vacation accrued but not used in the current calendar year and for any vacation carried over from prior year if the employee terminates prior to March 31st, except for certain state statutory requirements. Accrued sick time is not paid to employees who terminate, and is "zeroed out" from paid time off expense.

Paid Overtime and Uncompensated Overtime

Premium overtime is recorded in the Schedules. Uncompensated overtime for exempt employees is accumulated in a separate general ledger account and applied as a credit to the overhead pool. AE&I's employees are required to report all hours worked on their weekly timesheets regardless of pay type.

Prevailing Wage and Union Contracts

Prevailing wages are defined as those determinations set forth by the federal and state agencies to include the Davis Bacon Act, Service Contract Act, Union wage arrangements, Project Labor Agreements and various state programs. When the prevailing wage rate is applicable, the corresponding overtime premium and fringe delta are included in the direct labor pool, not overhead.

AMEC E&I, INC.

Notes to Schedules

Highly Compensated Employees/Officers/Owners

The reasonableness of executive compensation was evaluated for compliance with FAR 31.205-6. As part of this evaluation, a range of \$223,991 to \$709,429 was used to determine the reasonableness of compensation. This range was developed from survey data collected from other engineering firms. The amount within the range used to determine the reasonableness of compensation was determined by each employee's position within AE&I. No amount of compensation was deemed to be in excess of reasonable limits for the period ended December 31, 2011.

Pension Plan/Deferred Compensation

AE&I's pension plans meet the requirements detailed in FAR 31.205-6(j) and (k). In relation to AE&I's noncontributory, defined benefit pension plan, its funding policy is to contribute amounts annually to the plan sufficient to meet minimum funding requirements as set forth in the Employee Retirement Income Security Act of 1974, plus additional amounts, if any, as may be determined to be appropriate by AE&I's management. Contributions in the amount of approximately \$6,930,000 were paid for the period ended December 31, 2011. In relation to AE&I's defined contribution savings plan under section 401(k) of the Internal Revenue Code, it makes matching cash contributions of 50 percent on the first 5 percent contributed by eligible employees on a pretax basis. All pension expense is recorded in accordance with accounting principles generally accepted in the United States of America.

Contract Labor

AE&I uses contract labor for engineering related and general and administrative services. Contract labor used for engineering related services is considered to be a direct cost item and is therefore included in other direct costs. Contract labor used for general and administrative services is included in the overhead costs pool.

Note 6. Description of Depreciation and Leasing Policies

Certain assets are purchased and depreciated, while others are leased and considered operating leases, and the annual lease costs are included in the overhead pool. The depreciation reflected on AE&I's financial statements is presented in accordance with accounting principles generally accepted in the United States of America. The amounts included in the Schedules are allowable under FAR 31.205-11(e).

Note 7. Facilities Capital Cost of Money (FCCM)

AE&I's facilities capital cost of money rate has been calculated in accordance with FAR Part 31.205-10, using average net book values of equipment and facilities multiplied by the average treasury rate for the applicable period. Equipment and facilities include furniture and fixtures, equipment, vehicles, and leasehold improvements.

AMEC E&I, INC.

Notes to Schedules

AE&I's facilities capital cost of money rate has been computed as follows for the period ended December 31, 2011:

(a) Average net book value of capital assets	\$	8,514,697
(b) Average U.S. Treasury rate:		x 2.5625%
(c) Computed facilities capital	\$	218,189
(d) Direct labor base	\$	95,463,120
(e) Facilities capital cost of money rate (c)/(d)		0.2286%

Note 8. AE&I Owned and Leased Equipment and Other Direct Costs

Various items of AE&I owned or leased equipment, including trucks, computers, cell phones, construction equipment, etc. are recorded as an indirect expense. When these items are utilized on a direct project, the associated indirect cost is removed from the overhead pool and charged as a direct cost to the project being performed. The credit to the overhead pool is identifiable as "unit price usage credit". Some projects may require equipment and trucks that exceed those available, in these cases the associated cost is charged directly to the project in a direct cost account, and not recorded in the overhead pool.

Note 9. Direct Costs

AE&I maintains a job-order cost accounting system for the recording and accumulation of costs incurred under its contracts. Direct costs primarily billed to contracts include labor, outside vendor costs, employee expenses for travel (including airfare, lodging, and meals) and subcontract costs. Direct costs incurred in providing services billed to clients at unit rates or on the basis of a published fee schedule are charged by functional accounts and accumulated as a single project or grouping to allow segregation of such costs from other costs. Each project is assigned a job number so that costs may be segregated and accumulated in AE&I's job-order cost accounting system.

Note 10. Related Party Transactions

AMEC plc charges AE&I fees for management services. Fees of \$1,149,981 are shown as head office charges on the Schedule of Direct Labor, Fringe Benefits, and General Overhead (with Field Rate) Costs. These fees for management services are considered 100 percent unallowable for the period ended December 31, 2011.

Note 11. Subsequent Event

Effective January 1, 2012, the accounts of AE&I and AMEC merged with and into AMEC Environment & Infrastructure, Inc. (AEII), a wholly owned subsidiary of National Ventures. AEII serves as the principal operating subsidiary for National Ventures.

Exhibit H

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AGENCY, STATE or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, STATE or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT'S non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of the AGREEMENT, in whole or in part

6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the AGENCY, STATE or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY and the STATE enter into such litigation to protect the interests of the AGENCY and the STATE and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Exhibit I
Payment Upon Termination of Agreement
By the Agency Other Than for
Fault of the Consultant

(Refer to Agreement, Section IX)

Lump Sum Contracts

A final payment shall be made to the CONSULTANT which when added to any payments previously made shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the PROJECT. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

Cost Plus Fixed Fee Contracts

A final payment shall be made to the CONSULTANT which when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination is to the total work required for the Project. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

Specific Rates of Pay Contracts

A final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT plus any direct nonsalary costs incurred at the time of termination of this AGREEMENT.

Cost Per Unit of Work Contracts

A final payment shall be made to the CONSULTANT for actual units of work completed at the time of termination of this AGREEMENT.

Exhibit J

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 – Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Highways and Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 - Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 – Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 – Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide H&LP, through the Region

Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.

- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Step 5 – Forward Documents to Highways and Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Highways and Local Programs Engineer to H&LP for their review and consultation with the FHWA. H&LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, H&LP will request assistance from the Attorney General's Office for legal interpretation. H&LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. H&LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit K

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 – Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 – Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Highways and Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Highways and Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Step 3 – Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 – Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Highways and Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 – Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 – Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Exhibit M-1(a)
Certification Of Consultant

Project No. _____

Local Agency _____

I hereby certify that I am Sean Comfort and duly authorized representative of the firm of AHBL, Inc. whose address is 2215 North 30th Street, Suite #300, Tacoma, WA 98403 and that neither I nor the above firm I here represent has:

- (a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure the AGREEMENT;
- (b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- (c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature

Exhibit M-1(b)
Certification Of Agency Official

I hereby certify that I am the AGENCY Official of the Local Agency of City of Pacific, Washington, and that the consulting firm or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature

Exhibit M-2
Certification Regarding Debarment, Suspension, and Other Responsibility
Matters-Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (I) (B). of this certification; and
 - D. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Consultant (Firm): AHBL, Inc.

(Date)

(Signature) President or Authorized Official of Consultant

Exhibit M-3
Certification Regarding The Restrictions
of The use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Consultant (Firm): AHBL, Inc.

(Date)

(Signature) President or Authorized Official of Consultant

Exhibit M-4
Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of Milwaukee Blvd: STPUL-1017(008) * are accurate, complete, and current as of January 25, 2013 **. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm AHBL, Inc.

Name Sean Comfort

Title Principal

Date of Execution*** January 25, 2013

- * Identify the proposal, quotation, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., RFP No.).
- ** Insert the day, month, and year when price negotiations were concluded and price agreement was reached.
- *** Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.



STATE OF WASHINGTON

DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION

1063 S. Capitol Way, Suite 106 • Olympia, Washington 98501
Mailing address: PO Box 48343 • Olympia, Washington 98504-8343
(360) 586-3065 • Fax Number (360) 586-3067 • Website: www.dahp.wa.gov

RECEIVED
CITY OF PACIFIC
MAR 04 2011
COMMUNITY DEVELOPMENT
PUBLIC WORKS DEPARTMENT

March 2, 2011

Mr. James Morgan
Pacific
100 3rd Avenue SE
Pacific, WA 98047

In future correspondence please refer to:
Log: 030211-16-PI
Property: Milwaukee Blvd Sidewalk
Re: No Historic Properties Affected

Dear Mr. Morgan:

We have reviewed the materials forwarded to our office that describe the above referenced project. We find it unlikely that the project as proposed would impact important cultural resources in the project area. You may proceed without further cultural resource assessment or oversight from our department.

These comments are based on the information available at the time of this review and on behalf of the State Historic Preservation Officer in conformance with Governor's Executive Order 05-05. Should additional information become available, our assessment may be revised. We would appreciate receiving any correspondence or comments from concerned tribes or other parties concerning cultural resource issues that you receive as you consult under the requirements of EO 05-05.

Thank you for the opportunity to review and comment. If you have any questions, please contact me.

Sincerely,

Lance Wollwage, Ph.D.
Transportation Archaeologist
(360) 586-3536
lance.wollwage@dahp.wa.gov



DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION

Protect the Past, Shape the Future

CITY OF PACIFIC

Agenda Staff Report

Agenda Item No.	<u>Workshop Item B</u>	Meeting Date:	<u>March 4, 2013</u>
Subject:	<u>Employee Dishonesty-Crime Insurance Policy</u>	Prepared by:	<u>Betty J. Garrison, CPFA Finance Director</u>

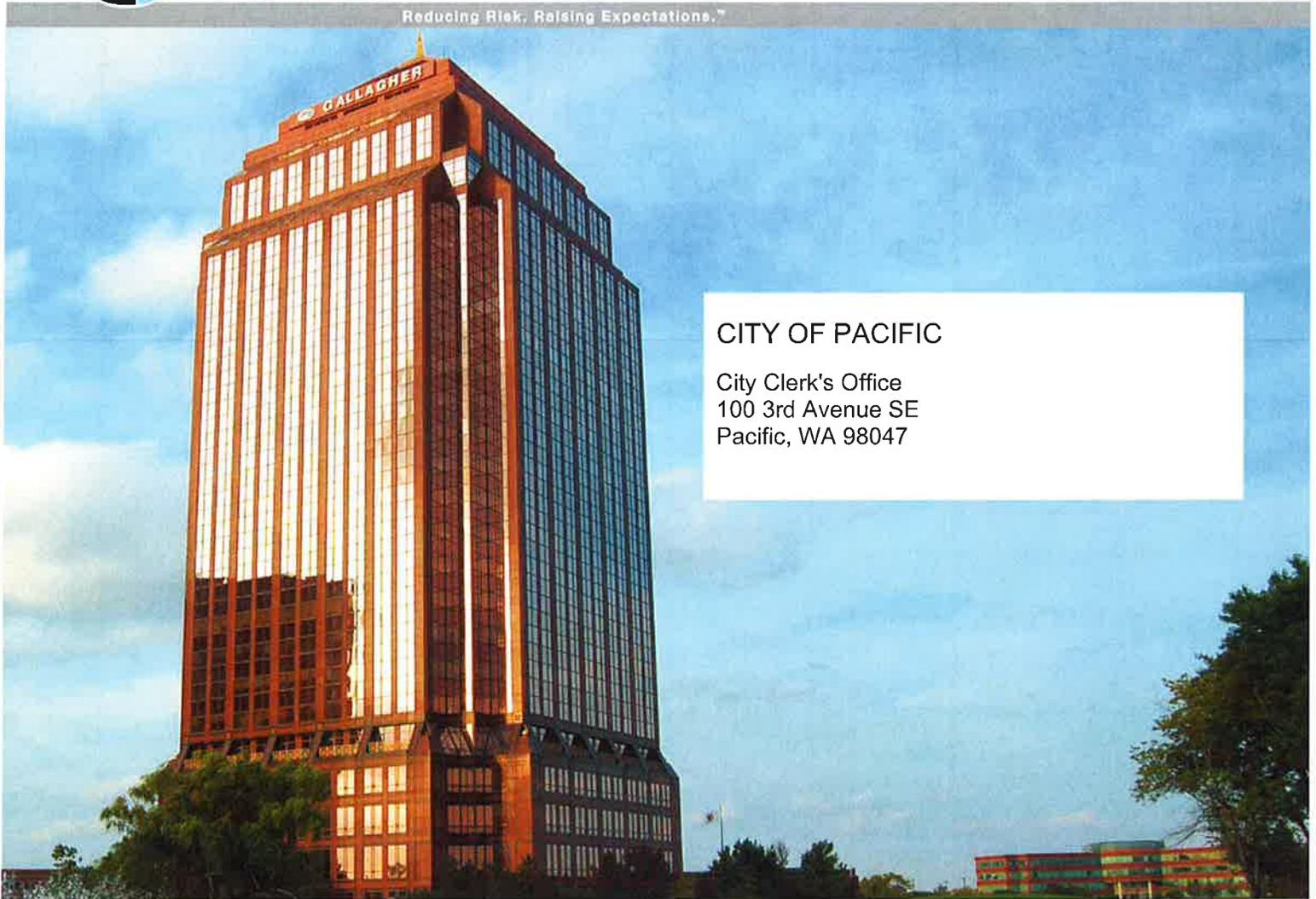
Summary: Met with the Insurance Broker Friday. They requested that this be brought to Council, however they received an additional bid late Thursday and will be redoing the proposal. It was to be to me Friday afternoon, however at this time 3:45 p.m. it has not been received. It was important that this be moved forward so the bids do not become stale. If not available when this packet is sent out, it will be provided on Monday.

Recommendation: Move forward for action at the next Council meeting.

Budget: \$2,500 - \$3,000 annual premium

Attachments:

Proposal from Arthur J. Gallagher Risk Management Services, Inc.



CITY OF PACIFIC

City Clerk's Office
100 3rd Avenue SE
Pacific, WA 98047

PROPOSAL OF INSURANCE

Crime

PRESENTED BY

Elizabeth Miser, Area Vice President

Arthur J. Gallagher Risk Management Services, Inc.
1015 A Street Suite 800
Tacoma, WA 98402
253-627-7183

www.ajgrms.com
2/27/2013



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Service Team

Elizabeth Miser has primary service responsibility for your company. We operate using a team approach. Your Service Team consists of:

NAME / TITLE	PHONE / FAX / ALT. PHONE	EMAIL	ROLE
Elizabeth Miser Area Vice President	253-238-1165(p) 253-572-1430(f) 253-495-0296(a)	Elizabeth_Miser@AJG.com	Producer
Louie Lewis Sr. Account Manager	253-238-1129(p) 253-572-1430(f) 253-627-7183(a)	Louie_Lewis@AJG.com	Service Rep.

Arthur J. Gallagher Risk Management Services, Inc.
Main Office Phone Number: 253-627-7183



Executive Summary

Arthur J. Gallagher Risk Management Services, Inc. appreciates the opportunity to present this proposal for your consideration.

In the following pages, we will demonstrate what makes our company the best fit for your insurance placement and risk management needs. Thank you again for allowing us to be your partner in this placement.

Elizabeth Miser

2/27/2013



Service Commitment

Account Service

At Arthur J. Gallagher & Co., we strive for long-term relationships. Insurance Relationships begin with solid, cost-effective insurance programs, but endure because of excellent service. We will address the day-to-day needs of your type of organization in a timely manner, and by being proactive regarding your insurance program throughout each insurance term and market cycle. In these ways, we can address your changing insurance needs.

Renewals

At each renewal, we will meet with you establish a renewal game plan, determining how many markets should be approached, how pricing is in the insurance marketplace, and what specific needs must be addressed. We will then approach markets we feel will present the best alternatives, and present each alternative at renewal as an option, even if we still feel the incumbent program is strongest. We will demonstrate how we have created competition within the marketplace to ensure that you receive the best renewal terms.

We make ourselves accountable by working with you to develop a written service schedule that meets your needs. You can track our service by referring to our written service commitment. Service becomes especially important as your type of organization continues to change and prosper.

As a top national broker, we have access to over 150 insurance companies and wholesalers. This maximizes your insurance options in any given policy year situation. In addition, the relationships we have cultivated with our markets are excellent. Our integrity and influence in the marketplace gives us an edge over other brokers. These factors are especially important to consider as the insurance needs of your organization become more complex, requiring more sophisticated solutions.

Acquisitions

On request, we will perform an insurance due-diligence review on all products and acquisitions.

Profit Center Premium Allocations

We will provide premium breakdown by entities and/or location schedule.

Automobile Identification Cards

ID cards will be issued upon binding of coverage.

Phone Calls

Phone calls will be returned within one working day of receipt.

Certificates of Insurance

Certificates of Insurance will be issued within one working day of receipt.

Quarterly Account Review

Quarterly account reviews will include review of claims, exposures, audits, and service.

Loss Control

We will coordinate all loss control activities between you and the carrier. We recommend that service be provided on a quarterly basis. We will also arrange loss control seminars on topics chosen by you upon request.



Named Insureds

NAMED INSUREDS	LINE OF COVERAGE
City of Pacific	Crime

Note: Any entity not named in this proposal may not be an insured entity. This may include partnerships and joint ventures.



Market Review

We approached the following carriers in an effort to provide the most comprehensive and cost effective insurance program.

CARRIER	LINE OF COVERAGE	CARRIER POSITION
Fidelity and Deposit Company of Maryland (Zurich Financial Services Ltd)	Crime	Quoted
Great American Insurance Company (Great American Property and Casualty Insurance Group)	Crime	Quoted
National Union Fire Insurance Company of Pittsburgh, Pa. (American International Group)	Crime	Quoted

* The premium indicated is an estimate provided by the market. The actual premium and acceptance of the coverage requested will be determined by the market after a thorough review of the completed application.



Insurance Carrier Ratings and Admitted Status

PROPOSED CARRIERS	A.M. BEST'S RATING	ADMITTED/ NON-ADMITTED
Fidelity and Deposit Company of Maryland (Zurich Financial Services Ltd)	A+ XV	Admitted
Great American Insurance Company (Great American Property and Casualty Insurance Group)	A XIII	Admitted
National Union Fire Insurance Company of Pittsburgh, PA (American International Group)	A XV	Admitted

If the above indicated coverage is placed with a Non-Admitted Carrier, the carrier is doing business in the state as a surplus lines or non-admitted carrier. As such, this carrier is not subject to the same regulations which apply to an admitted carrier nor do they participate in any insurance guarantee fund applicable in that state.

*The above A.M. Best Rating was verified on the date the proposal document was created.

Guide to Best Ratings Rating Levels and Categories

LEVEL	CATEGORY	Financial Size Categories		
A++, A+	Superior	<i>(In \$000 of Reported Policyholders' Surplus Plus Conditional Reserve Funds)</i>		
A, A-	Excellent			
B++, B+	Good	FSC I	Up to 1,000	FSC IX 250,000 to 500,000
B, B-	Fair	FSC II	1,000 to 2,000	FSC X 500,000 to 750,000
C++, C+	Marginal	FSC III	2,000 to 5,000	FSC XI 750,000 to 1,000,000
C, C-	Weak	FSC IV	5,000 to 10,000	FSC XII 1,000,000 to 1,250,000
D	Poor	FSC V	10,000 to 25,000	FSC XIII 1,250,000 to 1,500,000
E	Under Regulatory Supervision	FSC VI	25,000 to 50,000	FSC XIV 1,500,000 to 2,000,000
F	In Liquidation	FSC VII	50,000 to 100,000	FSC XV 2,000,000 or more
S	Suspended	FSC VIII	100,000 to 250,000	

Best's Insurance Reports, published annually by A.M. Best Company, Inc., presents comprehensive reports on the financial position, history, and transactions of insurance companies operating in the United States and Canada. Companies licensed to do business in the United States are assigned a Best's Rating which attempts to measure the comparative position of the company or association against industry averages.

A Best's Financial Strength Rating opinion addresses the relative ability of an insurer to meet its ongoing insurance obligations. It is not a warranty of a company's financial strength and ability to meet its obligations to policyholders. View the A.M. Best Important Notice: Best's Credit Ratings for a disclaimer notice and complete details at <http://www.ambest.com/ratings/notice>.

Best's Credit Ratings are under continuous review and subject to change and/or affirmation. For the latest Best's Credit Ratings and Best Credit Reports (which include Best Ratings), visit the A.M. Best website at <http://www.ambest.com>. See Guide to Best's Credit Ratings for explanation of use and charges. Copies of the Best's Insurance Reports for carriers listed above are also available upon request of your Gallagher representative.

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Gallagher companies use A.M. Best Company's rating services to evaluate the financial condition of insurers whose policies we propose to deliver. Gallagher companies make no representations and warranties concerning the solvency of any carrier, nor does it make any representation or warranty concerning the rating of the carrier which may change.



GUIDE TO BEST'S FINANCIAL STRENGTH RATINGS – INSURER

A Best's Financial Strength Rating is an independent opinion of an insurer's financial strength and ability to meet its ongoing insurance policy and contract obligations. The rating is based on a comprehensive quantitative and qualitative evaluation of a company's balance sheet strength, operating performance and business profile.

Financial Strength Ratings – Insurer

	Rating	Descriptor	Definition
Secure	A++, A+	Superior	Assigned to companies that have, in our opinion, a superior ability to meet their ongoing insurance obligations.
	A, A-	Excellent	Assigned to companies that have, in our opinion, an excellent ability to meet their ongoing insurance obligations.
	B++, B+	Good	Assigned to companies that have, in our opinion, a good ability to meet their ongoing insurance obligations.
Vulnerable	B, B-	Fair	Assigned to companies that have, in our opinion, a fair ability to meet their ongoing insurance obligations. Financial strength is vulnerable to adverse changes in underwriting and economic conditions.
	C++, C+	Marginal	Assigned to companies that have, in our opinion, a marginal ability to meet their ongoing insurance obligations. Financial strength is vulnerable to adverse changes in underwriting and economic conditions.
	C, C-	Weak	Assigned to companies that have, in our opinion, a weak ability to meet their ongoing insurance obligations. Financial strength is very vulnerable to adverse changes in underwriting and economic conditions.
	D	Poor	Assigned to companies that have, in our opinion, a poor ability to meet their ongoing insurance obligations. Financial strength is extremely vulnerable to adverse changes in underwriting and economic conditions.
	E	Under Regulatory Supervision	Assigned to companies (and possibly their subsidiaries/affiliates) placed under a significant form of regulatory supervision, control or restraint - including cease and desist orders, conservatorship or rehabilitation, but not liquidation - that prevents conduct of normal, ongoing insurance operations.
	F	In Liquidation	Assigned to companies placed in liquidation by a court of law or by a forced liquidation.
	S	Suspended	Assigned to rated companies when sudden and significant events affect their balance sheet strength or operating performance and rating implications cannot be evaluated due to a lack of timely or adequate information.

Rating Outlooks

Assigned to an interactive Financial Strength Rating to indicate its potential direction over an intermediate term, generally defined as 12 to 36 months.

Positive	Indicates possible rating upgrade due to favorable financial/market trends relative to the current rating level.
Negative	Indicates possible rating downgrade due to unfavorable financial/market trends relative to the current rating level.
Stable	Indicates low likelihood of a rating change due to stable financial/market trends.

Rating Modifiers

Modifier	Descriptor	Definition
u	Under Review	Indicates the rating may change in the near term, typically within six months. Generally is event driven, with positive, negative or developing implications.
pd	Public Data	Indicates rating assigned to insurer that chose not to participate in A.M. Best's interactive rating process.
s	Syndicate	Indicates rating assigned to a Lloyd's syndicate.

Affiliation Codes

Indicates rating is based on a type of affiliation with other insurers.

	g	Group	p	Pooled	r	Reinsured
--	---	-------	---	--------	---	-----------

Not Rated Categories

Assigned to companies reported on by A.M. Best, but not assigned a Best's Rating.

NR-1: Insufficient Data.	NR-2: Insufficient Size and/or Operating Experience.	NR-3: Rating Procedure Inapplicable.
NR-4: Company Request.	NR-5: Not Formally Followed.	

Rating Disclosure

A Best's Financial Strength Rating opinion addresses the relative ability of an insurer to meet its ongoing insurance obligations. The ratings are not assigned to specific insurance policies or contracts and do not address any other risk, including, but not limited to, an insurer's claims-payment policies or procedures; the ability of the insurer to dispute or deny claims payment on grounds of misrepresentation or fraud; or any specific liability contractually borne by the policy or contract holder. A Best's Financial Strength Rating is not a recommendation to purchase, hold or terminate any insurance policy, contract or any other financial obligation issued by an insurer, nor does it address the suitability of any particular policy or contract for a specific purpose or purchaser. In arriving at a rating decision, A.M. Best relies on third-party audited financial data and/or other information provided to it. While this information is believed to be reliable, A.M. Best does not independently verify the accuracy or reliability of the information. For additional details, see A.M. Best's *Terms of Use* at www.ambest.com.

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Premium Summary

The estimated program cost for the recommended program/options are outlined in the following table:

LINE OF COVERAGE	EXPIRING PROGRAM ESTIMATED COST		PROPOSED PROGRAMS	
	Fidelity and Deposit Company of Maryland (Zurich Financial Services Ltd)	Great American Insurance Company (Great American Property and Casualty Insurance Group)	National Union Fire Insurance Company of Pittsburgh, Pa. (American International Group)	
Crime				
Premium	\$2,447.00	\$3,134.00	\$2,311.00	
Taxes	\$2.66	-	-	
Srchrg & Asmnt	-	-	-	
Total Fees	-	-	-	
Estimated Cost	\$2,449.66	\$3,134.00	\$2,311.00	
Annualized Cost	N/A	N/A	N/A	
TRIA Premium	-	-	-	
Total Estimated Program Cost	\$0.00	\$2,449.66	\$3,134.00	\$2,311.00

Quote from Fidelity and Deposit Company of Maryland is valid until 3/20/2013

Quote from Great American Insurance Company is valid until 3/17/2013

Quote from National Union Fire Insurance Company of Pittsburgh, Pa. is valid until 3/15/2013

Gallagher is responsible for the placement of the following lines of coverage:

Crime

It is understood that any other type of exposure/coverage is either self-insured or placed by another brokerage firm other than Gallagher. If you need help in placing other lines of coverage or covering other types of exposures, please contact your Gallagher representative.



Payment Plans

CARRIER	LINE OF COVERAGE	GROUP	PAYMENT SCHEDULE	PAYMENT METHOD
Fidelity and Deposit Company of Maryland	Crime	Zurich Financial Services Ltd	100% due at inception; Annual	
Great American Insurance Company	Crime	Great American Property and Casualty Insurance Group	100% due at inception; Annual	
National Union Fire Insurance Company of Pittsburgh, Pa.	Crime	American International Group	100% due at inception; Annual	



Coverage Highlights

Coverage: Crime
Carrier: Fidelity and Deposit Company of Maryland
Policy Period: 2/8/2013 to 2/8/2014

Form Type:

COVERAGE	FORM TYPE	RETROACTIVE DATE	PENDING & PRIOR LITIGATION DATE
Crime	Discovery Form	N/A	N/A

Coverage (Including Limits/Sublimits):

DESCRIPTION	LIMIT OR SUBLIMIT	LIMIT	BASIS
Employee Theft - Per Loss Coverage	L	\$1,000,000	Per Loss
Forgery or Alteration	L	\$1,000,000	
Inside Premises - Theft of Money and Securities	L	\$75,000	
Inside Premises - Robbery or Safe Burglary of Other Property	L	\$75,000	
Outside The Premises	L	\$75,000	
Computer Fraud	L	\$100,000	
Faithful Performance	L	\$1,000,000	

Deductibles/SIR:

TYPE	COVERAGE	AMOUNT	AMOUNT BASIS
Deductible	Employee Theft - Per Loss Coverage	\$10,000.00	Per Loss
Deductible	Forgery or Alteration	\$10,000.00	
Deductible	Inside Premises - Theft of Money and Securities	\$750.00	
Deductible	Inside Premises - Robbery or Safe Burglary of Other Property	\$750.00	
Deductible	Outside The Premises	\$750.00	
Deductible	Computer Fraud	\$1,000.00	
Deductible	Faithful Performance	\$10,000.00	

Endorsements include, but are not limited to:

DESCRIPTION
CR 00 26 Government Crime Policy
Third Party Employee Dishonesty



Coverage Highlights (Cont'd)



Coverage Highlights (Cont'd)

Exclusions include, but are not limited to:

DESCRIPTION
Governmental Action
Accounting or Arithmetic Errors
Voluntary Parting of Property
Loss in which the existence of such loss is only proved by a profit and loss comparison or inventory records
Any theft or criminal act committed by a partner of the insured
Loss due to employee dishonesty
Date Related Losses (Y2K) Exclusion

Binding Requirements:

DESCRIPTION
Subject to Receipt, and satisfactory review, of a signed and dated F&D application

Other significant terms and conditions/restrictions:

DESCRIPTION
Notice of Disclosure for Agent & Broker Compensation

Premium	\$2,447.00
Taxes	
WA	\$2.66
Total Taxes	\$2.66
ESTIMATED PROGRAM COST:	\$2,449.66



Coverage Highlights

Coverage: Crime
Carrier: Great American Insurance Company
Policy Period: 3/1/2013 to 3/1/2014

Form Type:

COVERAGE	FORM TYPE	RETROACTIVE DATE	PENDING & PRIOR LITIGATION DATE
Crime	Loss Sustained	N/A	N/A

Coverage (Including Limits/Sublimits):

DESCRIPTION	LIMIT OR SUBLIMIT	LIMIT	BASIS
Form O - Public Employee Dishonesty	L	\$1,000,000	Per Loss
Faithful Performance of Duty -\$1,000,000 sub-limit of Form O	S	\$1,000,000	
Form B - Forgery or Alteration	L	\$75,000	
Form C - Theft, Disappearance and Destruction	L	\$75,000	
Form D - Robbery and Safe Burglary	L	\$75,000	
Form F - Computer Systems Fraud	L	\$100,000	

Deductibles/SIR:

TYPE	COVERAGE	AMOUNT	AMOUNT BASIS
Deductible	Form O - Public Employee Dishonesty	\$25,000	Per Loss
Deductible	Faithful Performance of Duty	\$25,000	
Deductible	Form B - Forgery or Alteration	\$10,000	
Deductible	Form C - Theft, Disappearance and Destruction	\$10,000	
Deductible	Form D - Robbery and Safe Burglary	\$10,000	
Deductible	Form F - Computer Systems Fraud	\$10,000	

Endorsements include, but are not limited to:

DESCRIPTION
ISO/SAA Government Crime Policy (Ed. 04/97)
Important Notice Fidelity Crime Division Claims SDM683
BusinessPRO Policy Common Declarations IL7001
BusinessPRO Forms And Endorsements Schedule IL8801
Common Policy Conditions IL0017
Washington Common Policy Conditions IL0146



Coverage Highlights (Cont'd)

Crime Coverage Part Declarations CR7800
Forms And Endorsement Schedule CR8801
Crime General Provisions-Loss Sustained CR1000
Forgery Or Alteration Coverage Form CR0003
Theft, Disappearance And Destruction Coverage Form CR0004
Robbery And Safe Burglary Coverage Form D -- Property Other Than Money and Securities CR0005
Computer Fraud Coverage Form CR0007
Public Employee Dishonesty Coverage Form CR0016
Washington Changes CR0135
Welfare & Pension Plan ERISA Compliance (Loss Sustained Form) CR1027
Add Faithful Performance Of Duty CR1044
General Endorsement - Include Treasurers - Employee Dishonesty Coverage Form - " Employee" also includes Treasurers CR8802
In Witness Clause IL7268

Exclusions include, but are not limited to:

DESCRIPTION
Third Party Employee Dishonesty
Governmental Action
Accounting or Arithmetic Errors
Voluntary Parting of Property
Loss in which the existence of such loss is only proved by a profit and loss comparison or inventory records
Any theft or criminal act committed by a partner of the insured
Loss due to employee dishonesty
Date Related Losses (Y2K) Exclusion
Exclude Designated Persons or Classes of Persons as Employees - Finance Director City Clerk Deputy City Clerk CR1002
Exclude Trading Loss CR1004

Binding Requirements:

DESCRIPTION
Subject to our receipt, review and acceptance of the following information (Prior to Binding):
- Copy of the latest audited financials available
- Confirmation of no prior crime losses or incidences
- What are the cash handling controls for departments with cash exposure?
- Details of the controls over vendor activities. The application indicates there is no separation of duties over inventory management and vendor approval. How would they detect an employee setting up a fictitious vendor?
Subject to our receipt, review and acceptance of the following information (Within 30 Days of Binding):



Coverage Highlights (Cont'd)

- GAIC Governmental Application

Other significant terms and conditions/restrictions:

DESCRIPTION

TRIA Coverage: N/A

Premium **\$3,134.00**

ESTIMATED PROGRAM COST: **\$3,134.00**



Coverage Highlights

Coverage: Crime
Carrier: National Union Fire Insurance Company of Pittsburgh, PA
Policy Period: 3/1/2013 to 3/1/2014

Form Type:

COVERAGE	FORM TYPE	RETROACTIVE DATE	PENDING & PRIOR LITIGATION DATE
Crime	Loss Sustained	N/A	N/A

Coverage (Including Limits/Sublimits):

DESCRIPTION	LIMIT OR SUBLIMIT	LIMIT	BASIS
Crime: Single Loss Coverage Forms:		-	Per Loss
Employee Theft-Per Loss Coverage	L	\$1,000,000	
Forgery or Alteration	L	\$1,000,000	
Inside Premises-Theft of Money & Securities	L	\$75,000	
Inside Premises-Robbery, Safe Burglary-Other Prop.	L	\$75,000	
Outside the Premises	L	\$75,000	
Computer Fraud	L	\$100,000	
Funds Transfer Fraud	L	\$100,000	
Money Orders and Counterfeit Paper Currency	L	\$50,000	

Deductibles/SIR:

TYPE	COVERAGE	AMOUNT	AMOUNT BASIS
Deductible	Employee Theft-Per Loss Coverage	\$5,000	Single Loss Deductible
Deductible	Forgery or Alteration	\$5,000	Single Loss Deductible
Deductible	Inside Premises-Theft of Money & Securities	\$2,500	Single Loss Deductible
Deductible	Inside Premises-Robbery, Safe Burglary-Other Prop.	\$2,500	Single Loss Deductible
Deductible	Outside the Premises	\$2,500	Single Loss Deductible
Deductible	Computer Fraud	\$1,000	Single Loss Deductible
Deductible	Funds Transfer Fraud	\$1,000	Single Loss Deductible

Additional Coverage (Including Limits/Sublimits):

DESCRIPTION	LIMIT OR SUBLIMIT	LIMIT
Credit, Debit Or Charge Card Forgery	L	\$1,000,000



Coverage Highlights (Cont'd)

Faithful Performance Of Duty Coverage For Government Employees	L	\$1,000,000	
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Endorsements include, but are not limited to:

DESCRIPTION
Government Crime Policy Admitted - CR0027 (05/06) - basic contract.
Washington Changes - CR 02 10 08/10
Add Credit, Debit Or Charge Card Forgery - CR2520 08/07
Add Faithful Performance Of Duty Coverage For Government Employees - CR2519 05/06
Reliance Upon Other Carriers Application - 95446 08/07
Notice Of Claim (Reporting By E-Mail) - 99758 08/08
Coverage Territory Endorsement (OFAC) - 89644 07/05
Forms Index Endorsement - 78859 10/01

Exclusions include, but are not limited to:

DESCRIPTION
Third Party Employee Dishonesty
Governmental Action
Accounting or Arithmetic Errors
Voluntary Parting of Property
Loss in which the existence of such loss is only proved by a profit and loss comparison or inventory records
Any theft or criminal act committed by a partner of the insured
Loss due to employee dishonesty
Date Related Losses (Y2K) Exclusion

Binding Requirements:

DESCRIPTION
Subject to before this account can be bound, insured brokers license number and expiration date for the state of Washington will be required.

Other significant terms and conditions/restrictions:

DESCRIPTION
This quote is strictly conditioned upon no material change in the risk occurring between the date of this letter and the inception date of the proposed policy. In the event of such change in risk, the Insurer may in its sole discretion, whether or not this quote has been already accepted by the Insured, modify and/or withdraw this quote.

Premium	\$2,311.00
ESTIMATED PROGRAM COST:	\$2,311.00



Coverage Highlights (Cont'd)



Changes/Developments

It is important that we be advised of any changes in your operations that may have a bearing on the validity and/or adequacy of your insurance. The types of changes that concern us include, but are not limited to, those listed below:

1. Changes in any operation such as expansion to other states or new products.
2. Mergers and/or acquisition of new companies.
3. Any newly assumed contractual liability, granting of indemnities, or hold harmless agreements.
4. Circumstances which may require increased liability insurance limits.
5. Any changes in fire or theft protection, such as the installation of or disconnection of sprinkler systems, burglar alarms, etc. This includes any alterations to same.
6. Immediate advice of any changes to scheduled equipment such as contractors' equipment, electronic data processing, etc.
7. Property of yours that is in transit, unless we have previously arranged for the insurance.
8. Any changes in existing premises including vacancy, whether temporary or permanent, alterations, demolition, etc. Also, any new premises either purchased, constructed, or occupied.



Proposal Disclosures

The following disclosures are hereby made a part of this proposal. Please review these disclosures prior to signing the Client Authorization to Bind or e-mail confirmation.

Proposal Disclaimer

IMPORTANT: The proposal is an outline of certain terms and conditions of the insurance proposed by the insurers, based on the information provided by your company. It does not include all the terms, coverages, exclusions, limitations and/or conditions of the actual policy contract language. The insurance policies themselves must be read for those details. Policy forms for your reference will be made available upon request.

We will not be operating in a fiduciary capacity, but only as your broker, obtaining a variety of coverage terms and conditions to protect the risks of your enterprise. We will seek to bind those coverages based upon your authorization; however, we can make no warranties in respect to policy limits or coverage considerations of the carrier. Actual coverage is determined by policy language, so read all policies carefully. Contact us with questions on these or any other issues of concern.

Compensation Disclosure

One of the core values highlighted in The Gallagher Way states, "We are an Open Society," and our open society extends to the compensation Gallagher receives. For more information on Gallagher's compensation arrangements, please visit <http://www.ajg.com/compdisclosure>. In general, Gallagher may be compensated as follows:

1. Gallagher Companies are primarily compensated from the usual and customary commissions or fees received from the brokerage and servicing of insurance policies, annuity contracts, guarantee contracts and surety bonds (collectively "insurance coverages") handled for a client's account, which such commissions and fees may vary from company to company and insurance coverage to insurance coverage. As permitted by law, Gallagher companies occasionally receive both commissions and fees. In placing, renewing, consulting on or servicing your insurance coverages, Gallagher Companies may participate in contingent commission arrangements with intermediaries and insurance companies that provide for additional contingent compensation if underwriting, profitability, volume or retention goals are achieved. Such goals are typically based on the total amount of certain insurance coverages placed by Gallagher with the insurance company and/or through the intermediary, not on an individual policy basis. As a result, Gallagher may be considered to have an incentive to place your insurance coverages with a particular insurance company.
2. Gallagher Companies may also receive investment income on fiduciary funds temporarily held by them, such as premiums or return premiums.
3. Gallagher Companies may access other facilities, including wholesalers, reinsurance intermediaries, captive managers, underwriting managers and others that act as intermediaries for both Gallagher and other brokers in the insurance marketplace. Gallagher Companies may own some of these facilities, in whole or in part. If such a facility was utilized in the placement of a client's account, the facility may have earned and retained customary brokerage commission or fees for its work.
4. Gallagher assists its customers in procuring premium finance quotes and unless prohibited by law may earn compensation for this value added service.

If you have specific questions about the compensation received by Gallagher and its affiliates in relation to your insurance placements, please contact your Gallagher representative for more details.

In the event you wish to register a formal complaint regarding compensation Gallagher receives from insurers or third parties, please send an e-mail to Compensation_Complaints@ajg.com or send a letter to:

AVC Compliance Officer
Arthur J. Gallagher & Co.
Two Pierce Place, 20th Floor
Itasca, IL 60143



- TRIA/TRIPRA Disclaimer** If this proposal contains options to purchase TRIA/TRIPRA coverage, the proposed TRIA/TRIPRA program may not cover all terrorism losses. While the most recent legislation eliminated the distinction between foreign and domestic acts of terrorism, a number of lines of coverage excluded under the TRIA legislation passed in 2005 remain excluded including commercial automobile, burglary and theft insurance; surety insurance, farm owners multiple perils and professional liability (although directors and officers liability is specifically included). If such excluded coverages are required, we recommend that you consider purchasing a separate terrorism policy. Please note that a separate terrorism policy for these excluded coverages may be necessary to satisfy loan covenants or other contractual obligations.
- Confidentiality Statement** We consider as confidential any information presented by **Arthur J. Gallagher Risk Management Services, Inc.** in response to your "request for proposal," as well as subsequent verbal and written communications between our organizations. We ask that other brokers not have access to our material and that information presented in this proposal be shared only with those who have a need to know within your company. We make our commitment to you that information already received from you, and additional to follow, will be treated with the same high level of respect and confidentiality.
- Actuarial Disclaimer** The information contained in this proposal is based on the historical loss experience and exposures provided to **Arthur J. Gallagher Risk Management Services, Inc.** This proposal is not an actuarial study. Should you wish to have this proposal reviewed by an independent actuary, we will be pleased to provide you with a listing of actuaries for your use.



Client Signature Requirements



Client Authorization to Bind Coverage

After careful consideration of Gallagher's proposal dated 2/27/2013, we accept the following coverage(s). Please check the desired coverage(s) and note any coverage amendments below:

LINE OF COVERAGE		CARRIER
<input type="checkbox"/> Accept <input type="checkbox"/> Reject	Crime	Fidelity and Deposit Company of Maryland (Zurich Financial Services Ltd)
<input type="checkbox"/> Accept <input type="checkbox"/> Reject	TRIA Coverage – N/A	
<input type="checkbox"/> Accept <input type="checkbox"/> Reject	Crime	Great American Insurance Company (Great American Property and Casualty Insurance Group)
<input type="checkbox"/> Accept <input type="checkbox"/> Reject	TRIA Coverage – N/A	
<input type="checkbox"/> Accept <input type="checkbox"/> Reject	Crime	National Union Fire Insurance Company of Pittsburgh, PA (American International Group)
<input type="checkbox"/> Accept <input type="checkbox"/> Reject	TRIA Coverage – N/A	

Producer/ Insured Coverage Amendments and Notes:

Client Initials



Client Authorization to Bind Coverage

It is understood this proposal provides only a summary of the details; the policies will contain the actual coverages.

We confirm the values, schedules, and other data contained in the proposal are from our records and acknowledge it is our responsibility to see that they are maintained accurately.

We agree that your liability to us arising from your negligent acts or omissions, whether related to the insurance or surety placed pursuant to these binding instructions or not, shall not exceed \$20 million, in the aggregate. Further, without limiting the foregoing, we agree that in the event you breach your obligations, you shall only be liable for actual damages we incur and that you shall not be liable for any indirect, consequential or punitive damages.

By:

Specify: owner, partner or corporate officer

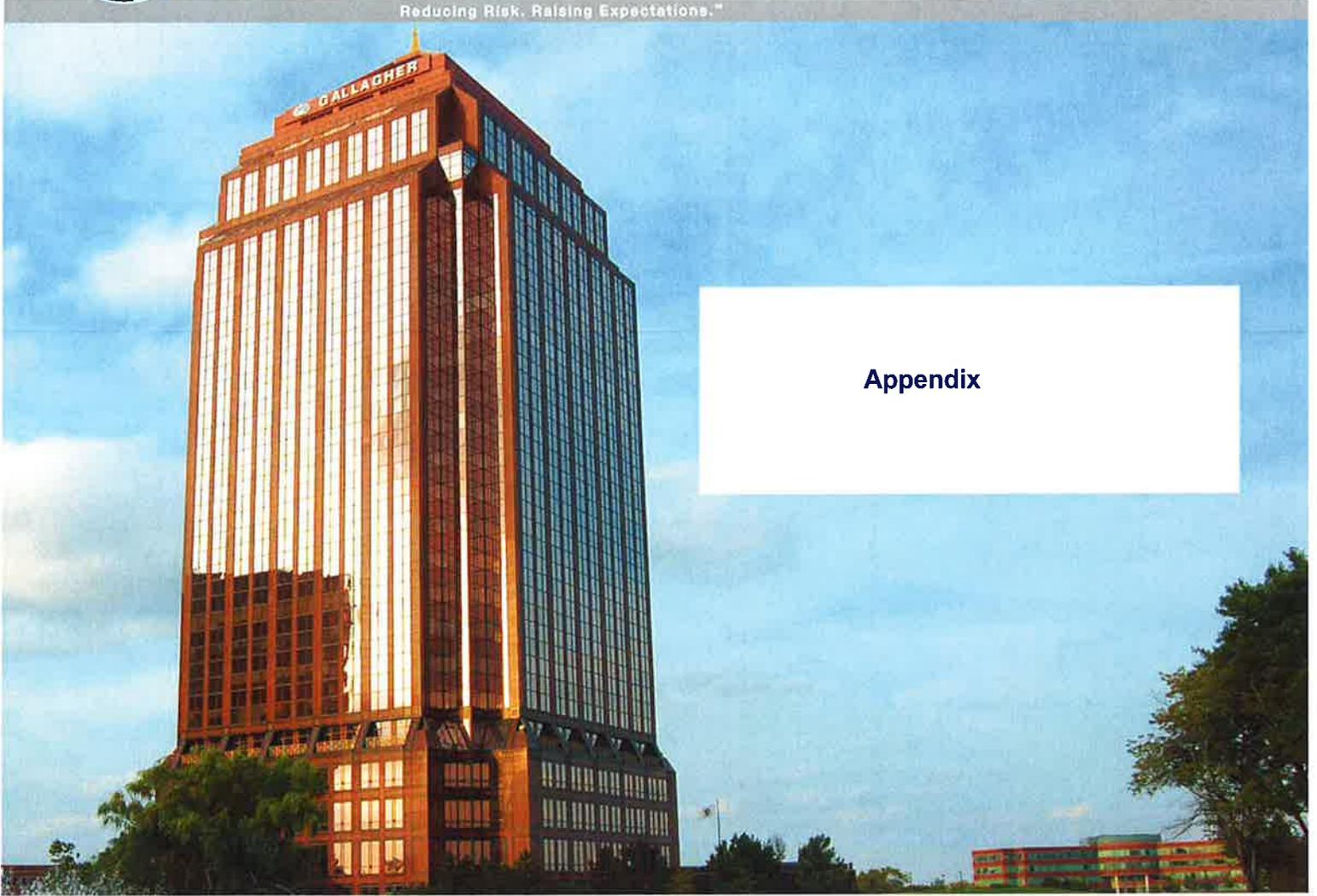
Print Name

Date:



Arthur J. Gallagher Risk Management Services

Reducing Risk. Raising Expectations.™



Appendix



Client Commitment

Our clients are our top priority, and we use every tool at our disposal to ensure that we honor that commitment.

- Managing our client's risks is our highest commitment.
- We try to anticipate our client's needs in advance.
- We seek to understand the client's business, not just our own.
- We always recommend that which is in the client's best interest, even if it diminishes our revenues.
- We lead our clients to more effective risk management techniques.
- We seek long-term relationships, not quick profits.
- Getting the order is only the beginning of our commitment, not the end.
- We never promise what we cannot produce.
- Honesty and integrity are paramount. If we make a mistake, we admit it, and we make it right.
- Every client, large or small, has full access to all of our expertise and capability.



Arthur J. Gallagher & Co.

Arthur J. Gallagher & Co is one of the largest and fastest growing brokers and risk management service providers in the insurance industry. Since 1927, our company has been helping businesses and industries manage risk by performing the traditional insurance broker's function of planning and placing insurance.

Basic to our success is a commitment to meeting each client's particular needs. This commitment has enabled the company to grow from a two-person organization to our present ranking as one of the largest insurance brokers in the world.

The expansion of our company into a nationwide organization has been dramatic. We were true pioneers in the concept of risk management. We created the first self-insurance service organization, which was set up to administer all lines of coverage – Property, Workers Compensation, Auto, General and Professional Liability. This followed our early recognition of the changing needs of Risk Managers and has been accelerated by a rapidly changing environment.

Today Arthur J. Gallagher & Co. has over 250 production offices throughout the U.S. and the world. Additionally, we have access to the important London Market through Arthur J. Gallagher – UK and the third market in Bermuda via Arthur J. Gallagher Bermuda, Ltd.



The Gallagher Way

Shared values at Arthur J. Gallagher & Co. are the rock foundation of the Company and our Culture. What is a Shared Value? These are concepts that the vast majority of the movers and shakers in the Company passionately adhere to. What are some of Arthur J. Gallagher & Co.'s Shared Values?

1. We are a **Sales and Marketing Company** dedicated to providing excellence in **Risk Management Services** to our clients.
2. We support one another. We believe in one another. We acknowledge and respect the ability of one another.
3. We push for professional excellence.
4. We can all improve and learn from one another.
5. There are no second-class citizens – everyone is important and everyone's job is important.
6. We're an open society.
7. Empathy for the other person is not a weakness.
8. Suspicion breeds more suspicion. To trust and be trusted is vital.
9. Leaders need followers. How leaders treat followers has a direct impact on the effectiveness of the leader.
10. Interpersonal business relationships should be built.
11. We all need one another. We are all cogs in a wheel.
12. No department or person is an island.
13. Professional courtesy is expected.
14. Never ask someone to do something you wouldn't do yourself.
15. I consider myself support for our Sales and Marketing. We can't make things happen without each other. **We are a team.**
16. Loyalty and respect are earned – not dictated.
17. Fear is a turn-off.
18. People skills are very important at Arthur J. Gallagher & Co.
19. We're a very competitive and aggressive Company.
20. We run to problems – not away from them.
21. We adhere to the highest standards of moral and ethical behavior.
22. People work harder and are more effective when they're turned on – not turned off.
23. We are a warm, close Company. This is a strength – not a weakness.
24. We must continue building a professional Company – together – as a team.
25. Shared values can be altered with circumstances but carefully and with tact and consideration for one another's needs.

When accepted Shared Values are changed or challenged, the emotional impact and negative feelings can damage the Company.

— Robert E. Gallagher – May 1984



Gallagher Bassett Services, Inc.

Gallagher Bassett Services, Inc. is a division of Arthur J. Gallagher & Co. Whether your insurance program is a traditional first-dollar approach or a self-insured program, Gallagher Bassett Services, Inc. can assist you in your risk management program. Under a self-insured program, the benefits of Gallagher Bassett Services, Inc. are highlighted.

If your program is a more traditional approach, Arthur J. Gallagher & Co. as your broker, will work with you and the insurance carrier to use, the claims servicing and loss prevention services of the insuring company as effectively as possible. There may be problems that need special attention, in either loss prevention or claims, and Gallagher Bassett Services, Inc. can be used.

Areas of specialization of Gallagher Bassett Services, Inc. are:

- Claims servicing
- Loss prevention
- Property appraisals
- Special services
- Safety program development
- Hazardous communication program
- Supplement insurance carriers for special loss prevention problems, such as carpal tunnel syndrome.
- Assist in adjustment of catastrophic losses under conventional insurance programs.

Fees for each will be quoted on a per project basis.



Callagher Benefit Insurance Services

A Subsidiary of Arthur J. Gallagher & Co.

Gallagher Benefit Services, a subsidiary of Arthur J. Gallagher & Co. provides complete brokerage and consulting services to clients. Our focus is on creating unique solutions to each client's program goals by finding the best alternatives to meet clients' needs.

We provide services in three areas:

- Our brokerage capabilities extend from traditional coverage to specialty programs in the excess marketplace, including London. Gallagher Benefit Services is a leader in the development managed care reinsurance and other programs.
- Our consulting services focus on helping clients identify and structure the best combination of alternatives, using both traditional marketplace solutions, and creating new programs. Gallagher Benefit Services is a leader in managed care consulting, focusing on provider arrangements and cost management potential.
- We utilize the capacity of Gallagher Benefit Services, Inc., our wholly-owned third-party administrator, to deliver administrative services to both businesses and the provider community.

Our account executives form teams to service accounts, calling on our international expertise in the employee benefit arena. Each account executive is solely responsible for the long-term success of each client relationship. We believe in partnership, and deliver results.

National practice areas

- Retirement plan administration
- Tax-sheltered annuity plans
- Executive compensation programs



Claims Reporting By Policy

Direct Reporting

Immediately report all claims for the following lines of coverage to the insurance carrier:

- Arthur J. Gallagher, Claim Dept. 253-238-1141
- Immediately upon knowledge of an occurrence or possible incident
- Email to Kris_Kelly@ajg.com
- Fax to Kris Kelly at 253-238-1202



Bindable Quotations & Compensation Disclosure Schedule

Client Name: City of Pacific

COVERAGE(S)	CARRIER NAME(S)	ESTIMATED ANNUAL PREMIUM ¹	COMM. % OR FEE ²	NAME ³	WHOLESALE, MGA OR INTERMEDIARY	
					COMMISSION % / FEE \$ ⁴	AJG OWNED? YES/NO
Crime	Fidelity and Deposit Company of Maryland (Zurich Financial Services Ltd)	\$2,447.00	15%	N/A	N/A	N/A
Crime	Great American Insurance Company (Great American Property and Casualty Insurance Group)	\$3,134.00	15%	N/A	N/A	N/A
Crime	National Union Fire Insurance Company of Pittsburgh, Pa. (American International Group)	\$2,311.00	15%	N/A	N/A	N/A

Some carriers pay Gallagher supplemental or contingent commissions in addition to the policy commission. Contingent commissions are typically contingent upon performance factors such as growth, profit, volume or retention, while supplemental commissions are not. These supplemental or contingent commissions may range from less than 1% up to 10% of the policy premium. Please refer to the Contingent and Supplemental Commission Disclosure or contact your Gallagher representative for additional information.

- 1 * A verbal quotation was received from this carrier. We are awaiting a quotation in writing. The premium indicated is an estimate provided by the market. The actual premium and acceptance of the coverage requested will be determined by the market after a thorough review of the completed application.
- ** A written quotation was received from this carrier. The premium indicated is an estimate provided by the market. The actual premium and acceptance of the coverage requested will be determined by the market after a thorough review of the completed application.
- 2 The commission rate is a percentage of annual premium excluding taxes & fees.
* Gallagher is receiving _____% commission on this policy. The fee due Gallagher will be reduced by the amount of the commissions received.
- 3 We were able to obtain more advantageous terms and conditions for you through an intermediary/wholesaler.
- 4 * The non-Gallagher intermediary/wholesaler did not provide their compensation information for this proposal. The usual and customary compensation to a wholesaler/intermediary ranges from 5% to 12%, but we cannot verify that range is applicable in connection with this proposal.



Contingent and Supplemental Commission Disclosure

Effective October 1, 2009, Arthur J. Gallagher & Co., and its subsidiaries operating as insurance agents/brokers under the corporate holding company known as Arthur J. Gallagher Brokerage & Risk Management Services, LLC, resumed participating in contingent commission arrangements which are routinely offered by insurance companies and intermediaries to agents and brokers, after voluntarily foregoing the benefit of this type of compensation since January 1, 2005. Contingent commission arrangements provide for additional compensation if certain underwriting, profitability, volume or retention goals are achieved. Such goals are typically based on the total amount of certain insurance coverages placed by Gallagher with the insurance company and/or through the intermediary, not on an individual policy basis. As a result, Gallagher may be considered to have an incentive to place your insurance coverages with a particular insurance company.

During the time Gallagher's retail operations did not accept contingent commissions, some insurance markets and intermediaries, including Gallagher owned intermediaries, modified their commission schedule with Gallagher, resulting in an increase in some commission rates. The additional commissions, commonly referred to as "supplemental commissions", are known at the effective date of the policy, but some intermediaries and insurance companies are paying the commission increase apart and later from when the commission is normally paid at policy issuance.

Unlike contingent commissions, supplemental commission payments are determined without regard to any performance factors which are contingent on future growth, retention, profitability, etc.

Contingent and supplemental commission ranges from less than 1% up to 10% of written or earned premium on eligible lines of business (not all lines of business qualify).

NOTE: Upon request, your Gallagher representative can provide more specific market information regarding contingent and supplemental commission related to your insurance coverage.

CITY OF PACIFIC

Agenda Staff Report

Agenda Item No.	<u>Workshop Item C</u>	Meeting Date:	<u>March 4, 2013</u>
Subject:	<u>Resolution amending City Personnel Policy regarding maximum accrual of vacation time</u>	Prepared by:	<u>Betty J. Garrison, CPFA, Finance Director</u>

Summary: The City has employees who have exceeded their maximum accrual for vacation time. This is to address the issue without employees losing the benefit that they have earned. This was discussed multiple times in the Finance Committee and has been discussed and reviewed with both Union Representatives.

The Finance Committee has requested written approval from the Union prior to adoption. The Uniformed Officer's Union Representative has signed off; the Public Works & Clerical Employee's Union Representative gave preliminary approval, The City is awaiting confirmation in writing.

Recommendation: Move forward to the next Council meeting for adoption.

Budget:

Attachments:

- Resolution Draft
- Current Policy 100-16 pg 2
- Union Agreements, Article 15

CITY OF PACIFIC, WASHINGTON

RESOLUTION NO. 13-****

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, AMENDING CITY PERSONNEL POLICY REGARDING MAXIMUM ACCRUAL OF VACATION TIME.

WHEREAS, the City of Pacific Personnel Policy 100-016 states that the maximum vacation accrual that will be paid upon termination or carried forward at year end will be two times (2x) the employees allowed paid vacation accrual per year of service; and

WHEREAS, the Union Agreement for Public Works and Clerical Employees Section 15.03 states that Employees shall be allowed to accumulate vacation hours up to a maximum of twice (2x) their allowed vacation earnings per year of service. Vacation hours earned after maximum accumulation shall be forfeited; however they shall not be forfeited if the accumulation exceeds the maximum through no fault of the employee; and

WHEREAS, the Union Agreement for Uniformed Officers Section 15.03 goes on to state that prior to any action to consider forfeiture of vacation hours in excess of the maximum, the City shall provide thirty (30) days grace period for the employee to potentially utilize vacation hours to reduce their bank to under the maximum;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON:

Section 1. City of Pacific Personnel Policy 100-016, shall be amended to read as follows: (Page 2, Vacations)

Maximum Accrual

The maximum vacation accrual that will be paid upon termination or carried forward at year end will be two times (2X) the employees allowed paid vacation accrual per year of service. Vacation hours earned after the maximum accumulation shall not be forfeited if the accumulation exceeds the maximum through no fault of the employee and prior to forfeiture the City provides a thirty (30) day grace period for the employee to potentially utilize the vacation hours to reduce their bank to under the maximum. Vacation hours still in excess of the maximum accrual may be 1) cashed out in 40 hour increments when documentation is provided showing that requested vacation leave has been denied by Management, or 2) carried forward when documentation is provided showing that the requested vacation leave has been denied by Management and it can be documented that the time will be taken within the following three months.

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
EFFECTIVE DATE:
RESOLUTION NO.

Section 2. This Resolution shall take effect and be in force immediately upon its passage.

PASSED BY THE CITY COUNCIL AT ITS REGULAR MEETING THEREOF ON THE 11TH DAY OF March 2013.

CITY OF PACIFIC

Cy Sun, Mayor

ATTEST:

Patricia J. Kirkpatrick, MMC, City Clerk

Approved as to Form

Kenyon Luce, City Attorney

DRAFT

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
EFFECTIVE DATE:
RESOLUTION NO.

calculating leave availability, the 12 month period is a rolling 12 month period measured backwards from the date you use any FMLA leave.

Leave may be taken to care for a new child by birth, adoption, or foster care or for a child, spouse, domestic partner, or parent with a serious illness, or for personal serious illness requiring inpatient or continuing treatment. Except in emergencies, an employee must give at least thirty (30) days notice when planning to take the leave. The City will continue to contribute its portion of the medical insurance premiums during the leave. If the employee does not return to work, the City may recover the premiums paid during the leave unless the failure to return is beyond the employee's control.

The employee will be required by the City to use accrued and unused sick leave, vacation leave and /or compensatory time in accordance with the City policy to offset loss of pay during the leave.

Vacation and sick leave accruals will not continue during any unpaid leave. Employees who return to work at the end of the twelve (12) weeks of leave will be returned to the same or an equivalent job at the same pay, however, employees remain subject to legitimate job changes or layoffs that would have occurred even if they had not been on leave.

Under Washington State law, employees are entitled to twelve (12) weeks of unpaid leave to care for a newborn child, in addition to time off for any period of actual disability with pregnancy or childbirth. The City is not required to continue to pay its portion of medical insurance beyond the twelve (12) week FMLA leave entitlement.

Vacations

Vacation leave is hereby established for the mutual benefit of the employer and the employee. The purpose of vacation leave is to provide employees with adequate time away from work, and to provide the City with well-rested and efficient employees. Employees shall submit a Leave Request form for each anticipated absence to be approved by the Department Head or Supervisor.

Accrual Time

Full-time employees shall accrue vacation at the following rate:

- Initial hire through three (3) complete years of continuous employment – eight (8) hours per month.
- Four (4) years continuous employment and continuing through nine (9) full years of continuous employment – ten (10) hours per month.
- Ten (10) full years of continuous employment and continuing through fourteen (14) years continuous employment – twelve and one half (12.5) hours per month.
- Fifteen (15) full years of continuous employment and continuing through all remaining years of continuous employment – fifteen (15) hours per month.

Regular part-time employees shall accrue vacation leave on a pro-rated basis in the same percentage as the employee's average weekly scheduled hours relate to a forty (40) hour week.

Vacation leave may be used as soon as it is accrued.

Maximum Accrual

The maximum vacation accrual that will be paid upon termination or carried forward at year end will be two times (2x) the employees allowed paid vacation accrual per year of service.

ARTICLE 15 – VACATION

15.01 Vacation Earnings - Vacation shall be earned according to the following schedule:

1 through 3 years	8.0	hours/month
4 through 9 years	12	hours/month
10 through 14 years	14	hours/month
15 or more years	16	hours/month

15.02 Vacation pay shall be calculated in the following manner:

Annual wage/2080 = hourly rate

Hourly rate X hours of vacation requested = vacation pay.

15.03 Employees shall be allowed to accumulate vacation hours up to a maximum of twice their allowed vacation earnings per year of service. Vacation hours earned after maximum accumulation shall be forfeited, however, they shall not be forfeited if the accumulation exceeds the maximum through no fault of the employee. Prior to any action to consider forfeiture of vacation hours in excess of the maximum, the City shall provide thirty (30) days grace period for the employee to potentially utilize vacation hours to reduce their bank to under the maximum.

15.04 The Chief of Police/Public Safety Director shall establish a vacation schedule for the department. If two (2) or more employees request vacation for the same day(s), the employee with the greatest seniority in service to the City shall have first choice. The Chief of Police/Public Safety Director shall submit vacation schedules with the Mayor for approval. Mayoral approval must be granted before a vacation schedule becomes effective. Vacation periods may be granted in a manner causing the least interference with the performance of the regular work within the City.

15.05 Two (2) days notice is required prior to requesting one (1) day of vacation. Two (2) weeks notice is required prior to requesting two (2) days or more of vacation.

ARTICLE 16 – BEREAVEMENT LEAVE

16.01 In the event of a death in the immediate family, full time employees shall be granted up to three (3) days bereavement leave with pay. This leave shall not be accumulated.

16.02 Immediate family is defined to be persons related by blood, domestic partner relationship or marriage to an employee as follows: grandmother, grandfather, mother, father, husband, wife, son, daughter, legal parent/guardian, legally adopted child, brother,

ARTICLE 14 – HOLIDAYS

14.01 Each full time employee (including employees on a 4/10 or other non-standard work schedule) shall be entitled to eight (8) hours holiday pay on each of the following days declared as official holidays:

New Year's Day	Columbus Day
Martin Luther King Jr. Day	Thanksgiving Day
Presidents' Day	Day after Thanksgiving
Memorial Day	Veterans' Day
Independence Day	Day before Christmas
Labor Day	Christmas Day

14.02 HOLIDAY PAY (5 on 2 off Shift) - Whenever any legal holiday falls on a Sunday the following Monday shall be a legal holiday. Whenever any legal holiday falls on a Saturday the preceding Friday shall be a legal holiday. If a holiday falls on an employee's day off, that employee shall receive eight (8) hours of compensatory time off. If an employee is assigned to work on any holiday he/she shall receive, in addition to his/her regular monthly rate of pay, one and one-half (1½) times his/her regular rate of pay for all time worked on the holiday.

14.03 In order to be eligible for holiday pay an employee must be in a paid status on both the regular work day immediately preceding and immediately succeeding the scheduled holiday.

ARTICLE 15 – VACATION

15.01 VACATION EARNINGS - Vacation shall be earned according to the following schedule:

1 through 3 years	8.0 hrs/month
4 through 9 years	10.0 hrs/month
10 through 14 years	12.5 hrs/month
15 or more years	15.0 hrs/month

15.02 Vacation pay shall be calculated in the following manner:

Annual wage/2080 = hourly rate

Hourly rate X hours of vacation requested = vacation pay.

15.03 Employees shall be allowed to accumulate vacation hours up to a maximum of twice (2x) their allowed vacation earnings per year of service. Vacation hours earned after maximum accumulation shall be forfeited; however, they shall not be forfeited if the

accumulation exceeds the maximum through no fault of the employee.

15.04 The manager of each department shall establish a vacation schedule for the department. If two (2) or more employees request vacation for the same day(s), the employee with the greatest seniority in service to the City shall have first choice. Department managers shall submit vacation schedules to the Mayor for approval. Mayoral approval must be granted before a vacation schedule becomes effective. Vacation periods may be granted in a manner causing the least interference with the performance of the regular work within the City. Vacation leave may not be taken without the prior approval of the appointing authority and may not be taken in the pay period in which it was earned. Vacation leave shall be scheduled so as to meet the operating requirements of the City, and, as far as practicable, the preferences of the employees. If two (2) or more employees request vacation for the same day(s) the employee with the greatest seniority in service to the City shall have first choice.

ARTICLE 16 – BEREAVEMENT LEAVE

16.01 In the event of a death in the immediate family, full time employees shall be granted up to three (3) days bereavement leave with pay. This leave shall not be accumulated.

16.02 Additional time off may be requested by the employee and granted by the Departmental Director. Time off for the additional bereavement leave shall be charged against an employee's vacation or compensatory time leave balance at the option of the employee.

16.03 Immediate family is defined to be persons related by blood, domestic partner, or marriage to an employee as follows: grandmother, grandfather, mother, father, husband, wife, son, daughter, legally adopted child, brother, sister, grandchild, and any persons for whose financial or physical care the employee is principally responsible.

ARTICLE 17 – JURY DUTY

Employees who are required by due process of law to render jury service shall receive their pay during such period. If any other payment, besides mileage reimbursement for use of a personal vehicle, is received for jury duty such pay will be reimbursed to the City or deducted from the employee's paycheck.

ARTICLE 18 – SICK LEAVE

18.01 Full time employees shall earn sick leave at the rate of eight (8) hours per month to a maximum of 960 hours. Upon the retirement of an employee hired prior to

CITY OF PACIFIC

Agenda Staff Report

Agenda Item No.	<u>Workshop Item D</u>	Meeting Date:	<u>March 4, 2013</u>
Subject:	<u>Amending City Municipal Code Business & Occupational Tax and Administrative Provisions</u>	Prepared by:	<u>Betty J. Garrison, CPFA, Finance Director</u>

Summary: This will update Pacific Municipal Code 3.02 and 3.03 to bring the City into compliance with the Washington State Model Rules and Regulations. The proposed changes were to be adopted to be effective by January 1, 2013.

Recommendation: Move forward to the next Council meeting for adoption by Ordinance.

Budget:

Attachments:

Exhibit A
Exhibit B

EXHIBIT A

BUSINESS AND OCCUPATION TAX CHAPTER 3.02

.010 Purpose. The provisions of this chapter are an exercise of the police and taxation powers of the city to license for revenue purposes and to govern the privilege of engaging in business in the city. (Ord. 1280 § 2, 1995).

.020 Exercise of revenue license power. The provisions of this chapter shall be deemed an exercise of the power of the City to license for revenue. The provisions of this chapter are subject to periodic statutory or administrative rule changes or judicial interpretations of the ordinances or rules. The responsibility rests with the licensee or taxpayer to reconfirm tax computation procedures and remain in compliance with the City code.

.028 Administrative Provisions. The administrative provisions contained in chapter 3.03 shall be fully applicable to the provisions of this chapter except as expressly stated to the contrary herein.

.030 Definitions. In construing the provisions of this chapter, the following definitions shall be applied. Words in the singular number shall include the plural, and the plural shall include the singular.

"Business" "Business" includes all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly.

"Business and occupation tax." "Business and occupation tax" or "gross receipts tax" means a tax imposed on or measured by the value of products, the gross income of the business, or the gross proceeds of sales, as the case may be, and that is the legal liability of the business.

"Commercial or industrial use." "Commercial or industrial use" means the following uses of products, including by-products, by the extractor or manufacturer thereof:

- (1) Any use as a consumer; and
- (2) The manufacturing of articles, substances or commodities;

"Delivery." means the transfer of possession of tangible personal property between the seller and the buyer or the buyer's representative. Delivery to an employee of a buyer is considered delivery to the buyer. Transfer of possession of tangible personal property occurs when the buyer or the buyer's representative first takes physical control of the property or exercises dominion and control over the property. Dominion and control means the buyer has the ability to put the property to the buyer's own purposes. It means the buyer or the buyer's representative has made the final decision to accept or reject the property, and the seller has no further right to possession of the property and the buyer has no right to return the property to the seller, other than under a warranty contract. A buyer does not exercise dominion and control over tangible personal property merely by arranging for shipment of the property from the seller to itself. A buyer's representative is a person, other than an employee of the buyer, who is authorized in writing by the buyer to receive tangible personal property and take dominion and control by making the final decision to accept or reject the property.

Neither a shipping company nor a seller can serve as a buyer's representative. It is immaterial where the contract of sale is negotiated or where the buyer obtains title to the property. Delivery terms and other provisions of the Uniform Commercial Code (Title 62A RCW) do not determine when or where delivery of tangible personal property occurs for purposes of taxation.

"Digital automated service", "digital code", and "digital goods" have the same meaning as in RCW 82.04.192.

"Digital products" means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050(2)(g) and (6) (b).

"Director." "Director" means the Finance Director of the City or any officer, agent or employee of the City designated to act on the Director's behalf.

"Eligible gross receipts tax." The term "eligible gross receipts tax" means a tax which:

- (1) Is imposed on the act or privilege of engaging in business activities within section .050; and
- (2) Is measured by the gross volume of business, in terms of gross receipts and is not an income tax or value added tax; and
- (3) Is not, pursuant to law or custom, separately stated from the sales price; and
- (4) Is not a sales or use tax, business license fee, franchise fee, royalty or severance tax measured by volume or weight, or concession charge, or payment for the use and enjoyment of property, property right or a privilege; and
- (5) Is a tax imposed by a local jurisdiction, whether within or without the State of Washington, and not by a Country, State, Province, or any other non-local jurisdiction above the County level.

"Engaging in business" - (1) The term "engaging in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

(2) This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the City without having to register and obtain a business license or pay City business and occupation taxes. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1). If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

(3) Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.

(a) Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.

(b) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.

(c) Soliciting sales.

(d) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

- (e) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.
 - (f) Installing, constructing, or supervising installation or construction of, real or tangible personal property.
 - (g) Soliciting, negotiating, or approving franchise, license, or other similar agreements.
 - (h) Collecting current or delinquent accounts.
 - (i) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.
 - (j) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.
 - (k) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.
 - (l) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.
 - (m) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.
 - (n) Investigating, resolving, or otherwise assisting in resolving customer complaints.
 - (o) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.
 - (p) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.
 - (q) Accepting or executing a contract with the City, irrespective of whether goods or services are delivered within or without the City, or whether the person's office or place of business is within or without the City.
- (4) If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license and pay tax.
- (a) Meeting with suppliers of goods and services as a customer.
 - (b) Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.
 - (c) Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.
 - (d) Renting tangible or intangible property as a customer when the property is not used in the City.
 - (e) Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.

(f) Conducting advertising through the mail.

(g) Soliciting sales by phone from a location outside the City.

(5) A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (4).

The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

"Extracting." "Extracting" is the activity engaged in by an extractor and is reportable under the extracting classification.

"Extractor." "Extractor" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use, mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product; or fells, cuts or takes timber, Christmas trees, other than plantation Christmas trees, or other natural products; or takes fish, shellfish, or other sea or inland water foods or products. "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others; or persons meeting the definition of farmer.

"Extractor for Hire" "Extractor for hire" means a person who performs under contract necessary labor or mechanical services for an extractor.

"Gross income of the business." "Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

"Gross proceeds of sales." "Gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property, digital goods, digital codes, digital automated services or for other services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

"Manufacturing." "Manufacturing" means the activity conducted by a manufacturer and is reported under the manufacturing classification.

"Manufacturer," "to manufacture." (1) "Manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from the person's own materials or ingredients any products. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, materials or ingredients equal to less than twenty percent (20%) of the total value of all materials or ingredients that become a part of the finished product, the owner of the equipment or facilities will be

deemed to be a processor for hire, and not a manufacturer. (A business not located in this City that is the owner of materials or ingredients processed for it in this City by a processor for hire shall be deemed to be engaged in business as a manufacturer in this City.)

(2) "To manufacture" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials or ingredients so that as a result thereof a new, different or useful product is produced for sale or commercial or industrial use, and shall include:

- (a) The production of special made or custom made articles;
- (b) The production of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;
- (c) Crushing and/or blending of rock, sand, stone, gravel, or ore; and
- (d) The producing of articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving such materials, articles, and substances of trade or commerce new forms, qualities, properties or combinations including, but not limited to, such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, mild curing, preserving, canning, and the preparing and freezing of fresh fruits and vegetables.

"To manufacture" shall not include the production of digital goods or the production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

"Person." "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the State of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit, or otherwise and the United States or any instrumentality thereof.

"Retailing." "Retailing" means the activity of engaging in making sales at retail and is reported under the retailing classification.

"Retail Service." "Retail service" shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(1) Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, batting cages, day trips for sightseeing purposes, and others, when provided to consumers. "Amusement and recreation services" also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term "amusement and recreation services" does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons, or archery lessons.

- (2) Abstract, title insurance, and escrow services;
- (3) Credit bureau services;
- (4) Automobile parking and storage garage services;

(5) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(6) Service charges associated with tickets to professional sporting events; and

(7) The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services.

(8) The term shall also include the renting or leasing of tangible personal property to consumers and the rental of equipment with an operator.

"Sale," "casual or isolated sale." (1) "Sale" means any transfer of the ownership of, title to, or possession of, property for a valuable consideration and includes any activity classified as a "sale at retail," "retail sale," or "retail service." It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.

(2) "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved on a routine or continuous basis.

"Sale at retail," "retail sale." (1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers, other than a sale to a person who presents a resale certificate under RCW 82.04.470 and who:

(a) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person; or

(b) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(c) Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(d) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) of this subsection following such use.

- (f) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.
- (2) "Sale at retail" or "retail sale" also means every sale of tangible personal property to persons engaged in any business activity which is taxable under .050(1)(g).
- (3) "Sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:
- (a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, rooming house, or mobile home park for the exclusive use of the tenants thereof, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;
 - (b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;
 - (c) The charge for labor and services rendered in respect to constructing, repairing, or improving any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;
 - (d) The sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;
 - (e) The sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;
 - (f) The sale of and charge made for the furnishing of lodging and all other services, except telephone business and cable service, by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous

period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) The sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), (e), (f), and (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection shall be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section shall be construed to modify this subsection.

(4) "Sale at retail" or "retail sale" shall also include the providing of competitive telephone service to consumers.

(5) (a) "Sale at retail" or "retail sale" shall also include the sale of prewritten software other than a sale to a person who presents a resale certificate under RCW 82.04.470, regardless of the method of delivery to the end user. For purposes of this subsection

(5)(a) the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

The term "sale at retail" or "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten software.

(b)(i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii)(A) The service described in (b)(i) of this subsection 5 includes the right to access and use prewritten software to perform data processing.

(B) For the purposes of this subsection (b)(ii) "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information.

Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(6) "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state, the State of Washington, or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(7) "Sale at retail" or "retail sale" shall also include the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not mean an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement.

(8) "Sale at retail" or "retail sale" shall also include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation (government contracting).

(9) "Sale at retail" or "retail sale" shall not include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development. (This should be reported under the service and other classification.)

(10) "Sale at retail" or "retail sale" shall not include the sale of or charge made for labor and services rendered for environmental remedial action. (This should be reported under the service and other classification.)

(11) "Sale at retail" or "retail sale" shall also include the following sales to consumers of digital goods, digital codes, and digital automated services:

(a) Sales in which the seller has granted the purchaser the right of permanent use;

(b) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(c) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(d) Sales in which the purchaser is obligated to make continued payment as a condition of the sale. A retail sale of digital goods, digital codes, or digital automated services under this subsection 5(11) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services. For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(12) "Sale at retail" or "retail sale" shall also include the installing, repairing, altering, or improving of digital goods for consumers.

"Sale at wholesale," "wholesale sale." "Sale at wholesale" or "wholesale sale" means any sale of tangible personal property, digital goods, digital codes, digital automated services, prewritten computer software, or services described in 5(b)(i), which is not a retail sale, and any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property and retail services, if such charge is expressly defined as a retail sale or retail service when rendered to or for consumers. Sale at wholesale also includes the sale of telephone business to another telecommunications company as defined in RCW 80.04.010 for the purpose of resale, as contemplated by RCW 35.21.715.

"Services." "Services" includes those activities that do not fall within one of the other tax classifications.

"Taxpayer." "Taxpayer" means any "person", as herein defined, required to have a business license under this chapter or liable for the collection of any tax or fee under this chapter, or who engages in any business or who performs any act for which a tax or fee is imposed by this chapter.

"Value proceeding or accruing." "Value proceeding or accruing" means the consideration, whether money, credits, rights, or other property expressed in terms of money, a person is entitled to receive or which is actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer.

"Value of products." (1) The value of products, including by-products, extracted or manufactured, shall be determined by the gross proceeds derived from the sale thereof whether such sale is at wholesale or at retail, to which shall be added all subsidies and bonuses received from the purchaser or from any other person with respect to the extraction, manufacture, or sale of such products or by-products by the seller.

(2) Where such products, including by-products, are extracted or manufactured for commercial or industrial use; and where such products, including by-products, are shipped, transported or transferred out of the City, or to another person, without prior sale or are sold under circumstances such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from sales in this state of similar products of like quality and character, and in similar quantities by other taxpayers, plus the amount of subsidies or bonuses ordinarily payable by the purchaser or by any third person with respect to the extraction, manufacture, or sale of such products. In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs. The Director may prescribe rules for the purpose of ascertaining such values. (3) Notwithstanding subsection (2) above, the value of a product manufactured or produced for purposes of serving as a prototype for the development of a new or improved product shall correspond to (a) the retail selling price of such new or improved product when first offered for sale; or (2) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

"Wholesaling." "Wholesaling" means engaging in the activity of making sales at wholesale, and is reported under the wholesaling classification.

.050 Imposition of the tax - tax or fee levied. (1) Except as provided in subsection (2) of this section, there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the City, whether the person's office or place of business be within or without the City. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including by-products, as the case may be, as follows:

(a) Upon every person engaging within the City in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, extracted within the city for sale or for commercial or industrial use, multiplied by the rate of two-tenths of one percent (0.2%). The measure of the tax is the value of the products, including by-products, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

(b) Upon every person engaging within the City in business as a manufacturer, as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including by-products, manufactured within the city, multiplied by the rate of two-tenths of one percent (0.2%). The measure of the tax is the value of the products, including by-products, so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the City.

(c) Upon every person engaging within the City in the business of making sales at wholesale, except persons taxable under subsection ___ of this section; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two-tenths of one percent (0.2%).

(d) Upon every person engaging within the City in the business of making sales at retail, as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business, without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of two-tenths of one percent (0.2%).

(e) Upon every person engaging within the City in the business of (i) printing, (ii) both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items, (iii) publishing newspapers, magazines and periodicals, (iv) extracting for hire, and (v) processing for hire; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of two-tenths of one percent (0.2%).

(f) Upon every person engaging within the City in the business of making sales of retail services; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales multiplied by the rate of two-tenths of one percent (0.2%).

(g) Upon every other person engaging within the City in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of two-tenths of one percent (0.2%). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, merger or other than by outright sale), persons engaged in the business of developing,

or producing custom software or of customizing canned software, producing royalties or commissions, and persons engaged in the business of rendering any type of service which does not constitute a sale at retail, a sale at wholesale, or a retail service.

(2) The gross receipts tax imposed in this section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the City during any calendar year is equal to or less than \$20,000, or is equal to or less than \$5,000 during any quarter if on a quarterly reporting basis.

.070 Multiple activities credit when activities take place in one or more cities with eligible gross receipt taxes.

(1) Persons who engage in business activities that are within the purview of two (2) or more subsections of .050 shall be taxable under each applicable subsection.

(2) Notwithstanding anything to the contrary herein, if imposition of the City's tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the City's tax, and still apply the City tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

(3) To take the credit authorized by this section, a taxpayer must be able to document that the amount of tax sought to be credited was paid upon the same gross receipts used in computing the tax against which the credit is applied.

(4) Credit for persons that sell in the City products that they extract or manufacture.

Persons taxable under the retailing or wholesaling classification with respect to selling products in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid (a) with respect to the manufacturing of the products sold in the City, and (b) with respect to the extracting of the products, or the ingredients used in the products, sold in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

(5) Credit for persons that manufacture products in the City using ingredients they extract. Persons taxable under the manufacturing classification with respect to manufacturing products in this City shall be allowed a credit against those taxes for any eligible gross receipts tax paid with respect to extracting the ingredients of the products manufactured in the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

(6) Credit for persons that sell within the City products that they print, or publish and print. Persons taxable under the retailing or wholesaling classification with respect to selling products in this City shall be allowed a credit against those taxes for any eligible gross receipts taxes paid with respect to the printing, or the printing and publishing, of the products sold within the City. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

.075 Deductions to prevent multiple taxation of manufacturing activities and prior to January 1, 2008, transactions involving more than one city with an eligible gross receipts tax.

(1) Amounts subject to an eligible gross receipts tax in another city that also maintains nexus over the same activity. For taxes due prior to January 1, 2008, a taxpayer that is subject to an eligible gross receipts tax on the same activity in more than one jurisdiction may be entitled to a deduction as follows:

(a) A taxpayer that has paid an eligible gross receipts tax, with respect to a sale of goods or services, to a jurisdiction in which the goods are delivered or the services are provided may deduct an amount equal to the gross receipts used to measure that tax from the measure of the tax owed to the City.

(b) Notwithstanding the above, a person that is subject to an eligible gross receipts tax in more than one jurisdiction on the gross income derived from intangibles such as royalties, trademarks, patents, or goodwill shall assign those gross receipts to the jurisdiction where the person is domiciled (its headquarters is located).

(c) A taxpayer that has paid an eligible gross receipts tax on the privilege of accepting or executing a contract with another city may deduct an amount equal to the contract price used to measure the tax due to the other city from the measure of the tax owed to the City.

(2) Person manufacturing products within and without. A person manufacturing products within the City using products manufactured by the same person outside the City may deduct from the measure of the manufacturing tax the value of products manufactured outside the City and included in the measure of an eligible gross receipts tax paid to the other jurisdiction with respect to manufacturing such products.

.076 Assignment of gross income derived from intangibles.

Gross income derived from the sale of intangibles such as royalties, trademarks, patents, or goodwill shall be assigned to the jurisdiction where the person is domiciled (its headquarters is located).

.077 Allocation and apportionment of income when activities take place in more than one jurisdiction.

Effective January 1, 2008, gross income, other than persons subject to the provisions of chapter 82.14A RCW, shall be allocated and apportioned as follows:

(1) Gross income derived from all activities other than those taxed as service or royalties under **PMC 3.02.050 (1)** shall be allocated to the location where the activity takes place.

(2) In the case of sales of tangible personal property, the activity takes place where delivery to the buyer occurs.

(3) In the case of sales of digital products, the activity takes place where delivery to the buyer occurs. The delivery of digital products will be deemed to occur at:

(a) The seller's place of business if the purchaser receives the digital product at the seller's place of business;

(b) If not received at the seller's place of business, the location where the purchaser or the purchaser's donee, designated as such by the purchaser, receives the digital product, including the location indicated by instructions for delivery to the purchaser or one, known to the seller;

(c) If the location where the purchaser or the purchaser's donee receives the digital product is not known, the purchaser's address maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(d) If no address for the purchaser is maintained in the ordinary course of the seller's business, the purchaser's address obtained during the consummation of the sale, including the address of the purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and

(e) If no address for the purchaser is obtained during the consummation of the sale, the address where the digital good or digital code is first made available for transmission by the seller or the address from which the digital automated service or service described in RCW 82.04.050 (2)(g) or (6)(b) was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(4) If none of the methods in subsection .077(3) for determining where the delivery of digital products occurs are available after a good faith effort by the taxpayer to apply the methods provided in subsection .077(3)(a) through .077(3)(e) then the city and the taxpayer may mutually agree to employ any other method to effectuate an equitable allocation of income from the sale of digital products. The taxpayer will be responsible for petitioning the city to use an alternative method under this subsection .077(D). The city may employ an alternative method for allocating the income from the sale of digital products if the methods provided in subsections .077(3)(a) through .077(3)(e) are not available and the taxpayer and the city are unable to mutually agree on an alternative method to effectuate an equitable allocation of income from the sale of digital products.

(5) For purposes of subsections .077(3)(a) through .077(3)(e), "Receive" has the same meaning as in RCW 82.32.730.

(6) Gross income derived from activities taxed as services and other activities taxed under **PMC 3.02.050 (1) g** shall be apportioned to the city by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service-income factor and the denominator of which is two.

(a) The payroll factor is a fraction, the numerator of which is the total amount paid in the city during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the city if:

- (i) The individual is primarily assigned within the city;
- (ii) The individual is not primarily assigned to any place of business for the tax period and the employee performs fifty percent or more of his or her service to the tax period in the city; or
- (iii) The individual is not primarily assigned to any place of business for the tax period, the individual does not perform fifty percent or more of his or her service in any city and the employee resides in the city.

(b) The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the city during the tax period, and the denominator of which is the total service income of the taxpayer everywhere during the tax period. Service income is in the city if:

- (i) The customer location is in the city; or
- (ii) The income-producing activity is performed in more than one location and a greater proportion of the service-income –producing activity is performed in the city than in any other location, based on costs of performance, and the taxpayer is not taxable at the customer location; or
- (iii) The service-income –producing activity is performed within the city, and the taxpayer is not taxable in the customer location.

(c) If the allocation and apportionment provisions of this subsection do not fairly represent the extent of the taxpayer's business activity in the city or cities in which the taxpayer does business, the taxpayer may petition for or the tax administrators may jointly require, in respect to all or any part of the taxpayer's business activity, that one of the following methods be used jointly by the cities to allocate or apportion gross income, if reasonable:

- (i) Separate accounting
- (ii) The use of a single factor;
- (iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the city; or
- (iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(7) The definitions in this subsection apply throughout this section.

(a) "**Apportionable income**" means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the city if the income would be taxable under the service classification if received from activities within the city, less any exemptions or deductions available.

(b) "**Compensation**" means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal internal revenue code.

(c) "**Individual**" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

(d) "**Customer location**" Means the city or unincorporated area of a county where the majority of the contacts between the taxpayer and the customer take place.

(e) "**Primarily assigned**" means the business location of the taxpayer where the individual performs his or her duties.

(f) "**Service-taxable income**" or "**service income**" means gross income of the business subject to tax under either the service or royalty classification.

(g) "**Tax period**" means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than one a year, taxpayers shall calculate the factors for the previous calendar year for reporting in the current calendar year and correct the reporting for the previous year when the factors are calculated for that year, but not later than the end of the first quarter of the following year.

(h) "**Taxable in the customer location**" means either that a taxpayer is subject to a gross receipts tax in the customer location for the privilege of doing business , or that the government where the customer is located has the authority to subject the taxpayer to gross receipts tax regardless of whether, in fact, the government does so.

(8) Assignment or apportionment of revenue under this Section shall be made in accordance with and in full compliance with the provisions of the interstate commerce clause of the United States Constitution where applicable.

.078 Allocation and apportionment of printing and publishing income when activities take place in more than one jurisdiction.

Notwithstanding RCW 35.102.130, effective January 1, 2008, gross income from the activities of printing, and of publishing newspapers, periodicals, or magazines, shall be allocated to the principal place in this state from which the taxpayer's business is directed or managed. As used in the section, the activities of printing, and of publishing newspapers, periodicals, or magazines, have the same meanings as attributed to those terms in RCW 82.04.280(1)

.090 Exemptions.

(1) Public utilities. This chapter shall not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of **Pacific Municipal Code Chapter 3.04**.

(2) Investments - dividends from subsidiary corporations. (a) This chapter shall not apply to amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such, and also amounts derived as dividends by a parent from its subsidiary corporations.

(3) **Insurance business**. This chapter shall not apply to amounts received by any person who is an insurer or their appointed insurance producer upon which a tax based on gross premiums is paid to the state pursuant to RCW 48.14.020, and provided further, that the provisions of this subsection shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

(4) Employees.

(a) This chapter shall not apply to any person in respect to the person's employment in the capacity as an employee or servant as distinguished from that of an independent contractor. For the purposes of this subsection, the definition of employee shall include those persons that are defined in the Internal Revenue Code, as hereafter amended.

(b) A booth renter is an independent contractor for purposes of this chapter.

(5) Amounts derived from sale of real estate. This chapter shall not apply to gross proceeds derived from the sale of real estate. This, however, shall not be construed to allow an exemption of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions. This chapter shall also not apply to amounts received for the rental of real estate if the rental income is derived from a contract to rent for a continuous period of thirty (30) days or longer.

(6) Mortgage brokers' third-party provider services trust accounts. This chapter shall not apply to amounts received from trust accounts to mortgage brokers for the payment of third-party costs if the accounts are operated in a manner consistent with RCW 19.146.050 and any rules adopted by the director of financial institutions.

(7) Amounts derived from manufacturing, selling or distributing motor vehicle fuel. This chapter shall not apply to the manufacturing, selling, or distributing motor vehicle fuel, as the term "motor vehicle fuel" is defined in RCW 82.36.010 and exempt under RCW 82.36.440, provided that any fuel not subjected to the state fuel excise tax, or any other applicable deduction or exemption, will be taxable under this chapter.

(8) Amounts derived from liquor, and the sale or distribution of liquor. This chapter shall not apply to liquor as defined in RCW 66.04.010 and exempt in RCW 66.08.120.

(9) Casual and isolated sales. This chapter shall not apply to the gross proceeds derived from casual or isolated sales.

(10) Accommodation sales. This chapter shall not apply to sales for resale by persons regularly engaged in the business of making retail sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to the vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable the buyer to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the buyer to the seller.

(11) Taxes collected as trust funds. This chapter shall not apply to amounts collected by the taxpayer from third parties to satisfy third party obligations to pay taxes such as the retail sales tax, use tax, and admission tax.

.100 Deductions. In computing the license fee or tax, there may be deducted from the measure of tax the following items:

(1) Receipts from tangible personal property delivered outside the State. In computing tax, there may be deducted from the measure of tax under retailing or wholesaling amounts derived from the sale of tangible personal property that is delivered by the seller to the buyer or the buyer's representative at a location outside the State of Washington.

(2) Cash discount taken by purchaser. In computing tax, there may be deducted from the measure of tax the cash discount amounts actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extracting or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the "value of product" provisions.

(3) Credit losses of accrual basis taxpayers. In computing tax, there may be deducted from the measure of tax the amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis.

(4) Constitutional prohibitions. In computing tax, there may be deducted from the measure of the tax amounts derived from business which the City is prohibited from taxing under the Constitution of the State of Washington or the Constitution of the United States.

(5) Receipts From the Sale of Tangible Personal Property and Retail Services Delivered Outside the City but Within Washington. Effective January 1, 2008, amounts included in the gross receipts reported on the tax return derived from the sale of tangible personal property delivered to the buyer or the buyer's representative outside the City but within the State of Washington may be deducted from the measure of tax under the retailing, retail services or wholesaling classification.

(6) Professional Employer Services. In computing the tax, a professional employer organization may deduct from the calculation of gross income the gross income of the business derived from performing professional employer services that is equal to the portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement.

(7) **Interest on investments or loans secured by mortgages or deeds of trust.** In computing tax, to the extent permitted by Chapter 82.14A RCW, there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on non-transient residential properties.

.120 Tax part of overhead.

It is not the intention of this chapter that the taxes or fees herein levied upon persons engaging in business be construed as taxes or fees upon the purchasers or customer, but that such taxes or fees shall be levied upon, and collectible from, the person engaging in the business activities herein designated and that such taxes or fees shall constitute a part of the cost of doing business of such persons.

.130 Severability Clause.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected.

EXHIBIT B

CHAPTER 3.03

Administrative Provisions For Business and Occupation Taxes

.010 Purpose. The provisions of this chapter provide for the administration of the business and occupation tax levied in the city.

.015 Application of chapter stated. The provisions of this chapter shall apply with respect to the taxes imposed under chapters 3.02 and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter or section.

.020 Definitions. For purposes of this chapter:

The definitions contained in chapter 3.02 shall apply equally to the provisions of this chapter unless the term is defined otherwise in this chapter. In addition, the following definitions will apply.

"Reporting period." "Reporting period" means:

- (1) A one-month period beginning the first day of each calendar month (monthly); or
- (2) A three-month period beginning the first day of January, April, July or October of each year (quarterly); or
- (3) A twelve-month period beginning the first day of January of each year (annual).

"Return." "Return" means any document a person is required by the City to file to satisfy or establish a tax or fee obligation that is administered or collected by the City and that has a statutorily defined due date.

"Successor." "Successor" means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, any part of the materials, supplies, merchandise, inventory, fixtures, or equipment of the taxpayer. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

"Tax year," "taxable year." "Tax year" or "taxable year" means the calendar year.

.021 Definitions – References to Chapter 82.32 RCW

Where provisions of Chapter 82.32 RCW are incorporated in Pacific Municipal Code Chapter 3.03, of this title, "Department" as used in the RCW shall refer to the "Director" as defined in PMC 2.12 and "warrant" as used in the RCW shall mean "citation or criminal complaint.

.025 Registration/license requirements. Requirements for obtaining a general business license are found in Chapter 5.02.

.030 Registration/license certificates. Every business shall obtain a general business license from the city as required by Chapter 5.02.

.040 When due and payable - Reporting periods - Monthly, quarterly, and annual returns - Threshold provisions or Relief from filing requirements - Computing time periods - Failure to file returns.

(1) Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by this chapter shall be due and payable in quarterly installments. At the Director's discretion, businesses may be assigned to a monthly or annual reporting period depending on the tax amount owing or type of tax. Tax payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

(2) Taxes shall be paid as provided in this chapter and accompanied by a return on forms as prescribed by the Director. The return shall be signed by the taxpayer personally or by a responsible officer or agent of the taxpayer. The individual signing the return shall swear or affirm that the information in the return is complete and true.

(3) Tax returns must be filed and returned by the due date whether or not any tax is owed.

(4) For purposes of the tax imposed by chapter 3.02, any person whose value of products, gross proceeds of sales, or gross income of the business, subject to tax after all allowable deductions, is equal to or less than Twenty Thousand Dollars (\$20,000) in the current calendar year, shall file a return, declare no tax due on their return, and submit the return to the Director. The gross receipts and deduction amounts shall be entered on the tax return even though no tax may be due.

(5) A taxpayer that commences to engage in business activity shall file a return and pay the tax or fee for the portion of the reporting period during which the taxpayer is engaged in business activity.

(6) Except as otherwise specifically provided by any other provision of this chapter, in computing any period of days prescribed by this chapter the day of the act or event from which the designated period of time runs shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or City or Federal legal holiday, in which case the last day of such period shall be the next succeeding day which is neither a Saturday, Sunday, or City or Federal legal holiday.

(7) If any taxpayer fails, neglects or refuses to make a return as and when required in this chapter, the Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the Director's estimate of the tax or fees due. Such assessment shall be deemed prima facie correct and shall be the amount of tax owed to the City by the taxpayer. The Director shall notify the taxpayer by mail of the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

.050 Payment methods - Mailing returns or remittances - Time extension - Deposits - Recording payments - Payment must accompany return - NSF checks.

(1) Taxes shall be paid to the Director in United States currency by bank draft, certified check, cashier's check, personal check, money order, cash, or by wire transfer or electronic payment if such wire transfer or electronic payment is authorized by the Director. If payment so received is not paid by the bank on which it is drawn, the taxpayer, by whom such payment is tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such payment had not been tendered.

Acceptance of any sum by the Director shall not discharge the tax or fee due unless the amount paid is the full amount due.

(2) A return or remittance that is transmitted to the City by United States mail shall be deemed filed or received on the date shown by the cancellation mark stamped by the Post Office upon the envelope containing it. The Director may allow electronic filing of returns or remittances from any taxpayer. A return or remittance which is transmitted to the City electronically shall be deemed filed or received according to procedures set forth by the Director.

(3) If a written request is received prior to the due date, the Director, for good cause, may grant, in writing, additional time within which to make and file returns.

(4) The Director shall keep full and accurate records of all funds received or refunded. The Director shall apply payments first against all penalties and interest owing, and then upon the tax, without regard to any direction of the taxpayer.

(5) For any return not accompanied by a remittance of the tax shown to be due thereon, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the penalties and interest provided in this chapter.

(6) Any payment made that is returned for lack of sufficient funds or for any other reason will not be considered received until payment by certified check, money order, or cash of the original amount due, plus a "non-sufficient funds" (NSF) charge of twenty dollars (\$20.00) is received by the Director. Any license issued upon payment with a NSF check will be considered void, and shall be returned to the Director. No license shall be reissued until payment (including the twenty dollars (\$20.00) NSF fee) is received.

(7) The Director is authorized, but not required, to mail tax return forms to taxpayers, but failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and making payment of the taxes or fees, when and as due under this chapter.

.060 Records to be preserved - Examination - Estoppel to question assessment.

Every person liable for any fee or tax imposed by this chapter shall keep and preserve, for a period of five (5) years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, vendor lists, inventories, stocks of merchandise, and other data including federal income tax and state tax returns and reports shall be open for examination at any time by the Director or its duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent.

(1) If a person does not keep the necessary books and records within the City, it shall be sufficient if such person (a) produces within the City such books and records as may be required by the Director, or (b) bears the cost of examination by the Director's agent at the place where such books and records are kept; provided that the person electing to bear such cost shall pay in advance to the Director the estimated amount thereof including round-trip fare, lodging, meals and incidental expenses, subject to adjustment upon completion of the examination.

(2) Any person who fails, or refuses a Department request, to provide or make available records, or to allow inspection or examination of the business premises, shall be forever barred from questioning in any court action, the correctness of any assessment of taxes

made by the City for any period for which such records have not been provided, made available or kept and preserved, or in respect of which inspection or examination of the business premises has been denied. The Director is authorized to determine the amount of the tax or fees payable by obtaining facts and information upon which to base the estimate of the tax or fees due. Such fee or tax assessment shall be deemed prima facie correct and shall be the amount of tax owing the City by the taxpayer. The Director shall notify the taxpayer by mail the amount of tax so determined, together with any penalty, interest, and fees due; the total of such amounts shall thereupon become immediately due and payable.

.070 Accounting methods.

(1) A taxpayer may file tax returns in each reporting period with amounts based upon cash receipts only if the taxpayer's books of account are kept on a cash receipts basis. A taxpayer that does not regularly keep books of account on a cash receipts basis must file returns with amounts based on the accrual method.

(2) The taxes imposed and the returns required hereunder shall be upon a calendar year basis.

.080 Public work contracts - Payment of fee and tax before final payment for work.

The Director may, before issuing any final payment to any person performing any public work contract for the City, require such person to pay in full all license fees or taxes due under this title from such person on account of such contract or otherwise, and may require such taxpayer to file with the Director a verified list of all subcontractors supplying labor and/or materials to the person in connection with said public work.

.090 Underpayment of tax, interest, or penalty – interest.

(1) If, upon examination of any returns, or from other information obtained by the Director, it appears that a tax or penalty less than that properly due has been paid, the Director shall assess the additional amount found to be due and shall add thereto interest on the tax only. The Director shall notify the person by mail of the additional amount, which shall become due and shall be paid within thirty (30) days from the date of the notice, or within such time as the Director may provide in writing.

(2) (a) Interest due for periods imposed prior to the effective date of this chapter, shall be ten percent (10%) of the delinquent tax plus any previously assessed and unpaid penalties or interest. For the purpose of calculating the interest, each month that the amounts are owed are due and unpaid shall be considered a separate violation subject to penalty. A fraction of a month shall be deemed a full month. In no event shall the interest for a tax delinquent for more than 90 days be less than \$50.00.

(b) For tax periods after December 31, 2004, the Director shall compute interest in accordance with RCW 82.32.050 as it now exists or as it may be amended.

(c) If PMC 3.03.090 2(b) is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this ordinance shall apply.

.095 Time in which assessment may be made.

The Director shall not assess, or correct an assessment for, additional taxes, penalties, or interest due more than four years after the close of the calendar year in which they were incurred, except that the Director may issue an assessment:

- (1) Against a person who is not currently registered or licensed or has not filed a tax return as required by this chapter for taxes due within the period commencing 10 years prior to the close of the calendar year in which the person was contacted in writing by the Director;
- (2) Against a person that has committed fraud or who misrepresented a material fact; or
- (3) Against a person that has executed a written waiver of such limitations.

.100 Over payment of tax, penalty, or interest - Credit or refund - Interest rate - Statute of limitations.

- (1) If, upon receipt of an application for a refund, or during an audit or examination of the taxpayer's records and tax returns, the Director determines that the amount of tax, penalty, or interest paid is in excess of that properly due, the excess amount shall be credited to the taxpayer's account or shall be refunded to the taxpayer. Except as provided in subsection (2) of this section, no refund or credit shall be made for taxes, penalties, or interest paid more than four (4) years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.
- (2) The execution of a written waiver shall extend the time for applying for, or making a refund or credit of any taxes paid during, or attributable to, the years covered by the waiver if, prior to the expiration of the waiver period, an application for refund of such taxes is made by the taxpayer or the Director discovers that a refund or credit is due.
- (3) Refunds shall be made by means of vouchers approved by the Director and by the issuance of a City check or warrants drawn upon and payable from such funds as the City may provide.
- (4) Any final judgment for which a recovery is granted by any court of competent jurisdiction for tax, penalties, interest, or costs paid by any person shall be paid in the same manner, as provided in subsection (3) of this section, upon the filing with the Director a certified copy of the order or judgment of the court.
- (5) (a) If any person makes an overpayment for periods prior to the effective date of this ordinance and within two years of the date of such overpayment applies for a refund or credit, the persons claim shall be allowed and a refund made by the city upon the determination by the Director that no other sums are owed by the person to the city.
(b) For tax periods after December 31, 2004, the Director shall compute interest on refunds or credits of amounts paid or other recovery allowed a taxpayer in accordance with RCW 82.32.060 as it now exists or as it may be amended.
(c) If PMC 3.03.100 (5)(b) is held to be invalid, then the provisions of RCW 82.32.060 existing at the effective date of this ordinance shall apply.

.110 Late payment - Disregard of written instructions - Evasion - Penalties.

- (1) If payment of any tax due on a return to be filed by a taxpayer is not received by the Director by the due date, the Director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.
- (2) If the Director determines that any tax has been substantially underpaid as defined in RCW 82.32.090.(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.
- (3) If a citation or criminal complaint is issued by the Director for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090 (3) as it now exists or as it may be amended

(4) If the Director finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the Licensing Officer a license as required by chapter 5.02, the Licensing Officer shall impose a penalty in accordance with RCW 82.32.090 (4) as it now exists or as it may be amended. No penalty shall be imposed under this subsection (4) if the person who has engaged in business without a license obtains a license prior to being notified by the Licensing Officer of the need to be licensed.

(5) If the Director determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5) as it now exists or as it may be amended

(6) If the Director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the Director shall assess a penalty in accordance with RCW 82.32.090(6) as it now exists or as it may be amended.

(7) The penalties imposed under subsections (1) through (5) above of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

(8) The Director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.

(9) For the purposes of this section, "return" means any document a person is required by the City of Pacific to file to satisfy or establish a tax or fee obligation that is administered or collected by the City, and that has a statutorily defined due date.

(10) If incorporation into the City of Pacific code of future changes to RCW 82.32.090 is deemed invalid, then the provisions of RCW 82.32.090 existing at the time this ordinance is effective shall apply.

.120 Cancellation of penalties.

(1) The Director may cancel any penalties imposed under subsections .110 (1) if the taxpayer shows that its failure to timely file or pay the tax was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows that it exercised ordinary business care and prudence in making arrangements to file the return and pay the tax but was, nevertheless, due to circumstances beyond the taxpayer's control, unable to file or pay by the due date. The Director has no authority to cancel any other penalties or to cancel penalties for any other reason except as provided in subsection (3).

(2) A request for cancellation of penalties must be received by the Director within 30 days after the date the Department mails the notice that the penalties are due. The request must be in writing and contain competent proof of all pertinent facts supporting a reasonable cause determination. In all cases the burden of proving the facts rests upon the taxpayer.

(3) The Director may cancel the penalties in subsections .110 (1) one time if a person:

(a) Is not currently licensed and filing returns,

(b) Was unaware of its responsibility to file and pay tax, and

(c) Obtained business licenses and filed past due tax returns within 30 days after being notified by the Department.

(4) The Director shall not cancel any interest charged upon amounts due.

.130 Taxpayer quitting business - Liability of successor.

(1) Whenever any taxpayer quits business, sells out, exchanges, or otherwise disposes of his business or his stock of goods, any tax payable hereunder shall become immediately due and payable. Such taxpayer shall, within ten (10) days thereafter, make a return and pay the tax due.

(2) Any person who becomes a successor shall become liable for the full amount of any tax owing. The successor shall withhold from the purchase price a sum sufficient to pay any tax due to the city from the taxpayer until such time as: a) the taxpayer shall produce a receipt from the City showing payment in full of any tax due or a certificate that no tax is due, or b) more than six (6) months has passed since the successor notified the Director of the acquisition and the Director has not issued and notified the successor of an assessment.

(3) Payment of the tax by the successor shall, to the extent thereof, be deemed a payment upon the purchase price. If such payment is greater in amount than the purchase price, the amount of the difference shall become a debt due such successor from the taxpayer.

(4) Notwithstanding the above, if a successor gives written notice to the Director of the acquisition, and the Department does not within six (6) months of the date it received the notice issue an assessment against the taxpayer and mail a copy of that assessment to the successor, the successor shall not be liable for the tax.

.140 Administrative Appeal.

Any person, except one who has failed to comply with section .060, aggrieved by the amount of the fee or tax determined by the Director to be required under the provisions of this chapter may appeal from such determination by filing a written notice of appeal with the City Clerk, within 20 days from the date written notice of such amount was mailed to the taxpayer. The City Council shall, as soon as practical, fix a time and place for the hearing of such appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the parties. The decision of the City Council shall indicate the correct amount of the fee or tax owing.

.150 Judicial Review of Administrative Appeal Decision The taxpayer or the City may obtain judicial review of the City Council's administrative decision by applying for a Writ of Review in either King County Superior Court within 21 days from the date of the City Council's decision in accordance with the procedure set forth in Chapter 7.16 RCW, other applicable law, and court rules. The City shall have the same right of review from the administrative decision as does a taxpayer.

.160 Director to make rules.

The Director shall have the power, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of carrying out the provisions of this chapter and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

.170 Ancillary allocation authority of Director.

The Director is authorized to enter into agreements with other Washington cities which impose an "eligible gross receipts tax":

- (1) To conduct an audit or joint audit of a taxpayer by using an auditor employed by the City of Pacific another city, or a contract auditor, provided, that such contract auditor's pay is not in any way based upon the amount of tax assessed;
- (2) To allocate or apportion in a manner that fairly reflects the gross receipts earned from activities conducted within the respective cities the gross proceeds of sales, gross receipts, or gross income of the business, or taxes due from any person that is required to pay an eligible gross receipts tax to more than one Washington city.
- (3) To apply the City's tax prospectively where a taxpayer has no office or place of business within the City and has paid tax on all gross income to another Washington city where the taxpayer is located; provided that the other city maintains an eligible gross receipts tax, and the income was not derived from contracts with the City.

.180 Mailing of Notices.

Any notice required by this chapter to be mailed to any taxpayer or licensee shall be sent by ordinary mail, addressed to the address of the taxpayer or licensee as shown by the records of the Director. Failure of the taxpayer or licensee to receive any such mailed notice shall not release the taxpayer or licensee from any tax, fee, interest, or any penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this chapter. It is the responsibility of the taxpayer to inform the Director in writing about a change in the taxpayer's address.

.190 Tax declared additional.

The license fee and tax herein levied shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of the City of Pacific except as herein otherwise expressly provided.

.200 Public disclosure - Confidentiality - Information sharing.

EACH CITY MAY ADOPT PROVISIONS OF 82.32.330 TO ADDRESS CONFIDENTIALITY OF TAX INFORMATION UNDER PUBLIC DISCLOSURE (RCW 35.102.145):

- (1) For purposes of this section, defined terms shall be as set forth in City Code:
 - (a) "Disclose" means to make known to any person in any manner whatever a return or tax information.
 - (b) "Tax information" means:
 - (i) A taxpayer's identity;
 - (ii) The nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemption, credits, assets, liability, net worth, tax liability deficiencies, over assessments, or tax payments, whether taken from the taxpayer's books and records or any other source;
 - (iii) Whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing; or
 - (iv) Other data received by, recorded by, prepared by, or provided to the City with respect to the determination or the existence, or possible existence, or liability, or the amount thereof, of a person under PMC 3.02 for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Nothing in this chapter requires any person possessing

data, material, or documents made confidential and privileged by this section to delete information from such data, material or documents so as to permit its disclosure.

(c) "City agency" means every City office, department, division, bureau, board, commission, or other City agency.

(d) "Taxpayer identity" means the taxpayer's name, address telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer.

(2) Returns and tax information are confidential and privileged, and except as authorized by this section, neither the Director nor any other person may disclose any return or tax information.

(3) This section does not prohibit the Director from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding;

(i) In respect of any tax imposed under PMC 3.02 if the taxpayer or its officer or other person liable under this title is a party in a proceeding; or

(ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding.

(b) Disclosing, subject to such requirements and conditions as the Director prescribes by rules adopted pursuant to PMC 3.03.160, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the Director determines that such disclosure would compromise any investigation or litigation by any federal, state or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

(c) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

(d) Disclosing such return or tax information, for official purposes only, to the Mayor or City Attorney, or to any City agency, or to any member of the City Council or their authorized designees dealing with matters of taxation, revenue, trade, commerce, and the control of industry or the professions;

(e) Permitting the City's records to be audited and examined by the proper state officer, his or her agents and employees;

(f) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation in a related court proceeding for which the return or tax information originally was sought or where otherwise allowed to be disclosed under this Section;

- (g) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of the City;
- (h) Disclosing any such return or tax information to the United States department of justice, including the bureau of alcohol, tobacco, firearms and explosives, and the department of defense, the immigration and customs enforcement and the customs and border protection agencies of the United States department of homeland security, the United States coast guard, the alcohol and tobacco tax and trade bureau of the United States department of treasurer and the United States department of transportation, or any authorized representative of these federal agencies or their successors, for official purposes;
- (i) Publishing or otherwise disclosing the text of a written determination designated by the Director as a precedent pursuant to RCW 82.32.410;
- (j) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers and the active/closed status of such registrations, state or local business license registration identification and the active/closed status and effective e dates of such licenses, reseller permit numbers and the expiration date and status of such permits, North American Industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business. Except that this subsection may not be construed as giving authority to the City or any recipient to give, sell, or provide access to any list of taxpayers for any commercial purposes;
- (k) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;
- (l) Disclosing such return or tax information to the United States department of agriculture, or successor department or agency, for the limited purpose of investigating food stamp fraud by retailers;
- (m) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the City for a filed tax warrant, judgment, or lien against the real property;
- (n) Disclosing to a person against whom the department has asserted liability as a successor under PMC 3.02.130 return or tax information pertaining to the specific business of the tax payer to which the person has succeeded;
- (o) Disclosing real estate excise tax affidavit forms filed under the City's real estate excise tax code in the possession of the City , including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;
- (p) Disclosing such return or tax information to the court or hearing examiner in respect to the City's application for a subpoena if there is probable cause to believe that the records in possession of a third party will aid the Director in connection with its official duties under this title or a civil or criminal investigation.
- (4) (a) The Director may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (4). The disclosure must be in connection

with the department's official duties under this Title, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The department may disclose return or tax information such as invoices, contacts, bills, statements, resale or exemption certificates or checks. However, the department may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, experts, work papers, income tax returns, state tax returns, tax return work papers, or other similar data, materials or documents.

(b) Before disclosure of any tax return or tax information under this subsection (4), the Director must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The Director may not disclose any tax return or tax information under this subsection (4) until the time period allowed in (c) of this subsection has expired or until the court has ruled on any challenge brought under (c) of this subsection.

(c) The person in possession of the data, materials, or documents to be disclosed by the department has twenty days from the receipt of the written request required under (b) of this subsection to petition the superior court of the county in which the petitioner resides for injunctive relief. The court must limit or deny the request of the Director if the court determines that:

(i) The data, materials or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome or less expensive.

(ii) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the department, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

(iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The Director must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under (b) of this subsection that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Service of a subpoena issued by the court of under PMC 2.06.050.B does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena issued by the Court or under PMC 2.06.050.B may disclose the existence or content of the subpoena to that person's legal counsel.

(6) Any person acquiring knowledge of any return or tax information in the course of his or her employment with the City and any person acquiring knowledge of any return or tax information as provided under subsections (3)(d), (e), (f), (g), (h), (i), or (k) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee

of the city, such person must forfeit such office or employment and is incapable of holding any public office or employment in this city for a period of two years thereafter,

.210 Tax constitutes debt.

Any license fee or tax due and unpaid under this chapter, and all interest and penalties thereon, shall constitute a debt to the City of Pacific and may be collected in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

.220 Unlawful actions - Violation - Penalties.

(1) It shall be unlawful for any person liable for fees under this chapter (or other chapters as listed):

(a) To violate or fail to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the Director;

(b) To make any false statement on any license application or tax return;

(c) To aid or abet any person in any attempt to evade payment of a license fee or tax;

(d) To fail to appear or testify in response to a subpoena issued pursuant to section .150.

(e) To testify falsely in any investigation, audit, or proceeding conducted pursuant to this Chapter.

(2) Violation of any of the provisions of this chapter is a gross misdemeanor. Any person convicted of a violation of this chapter may be punished by a fine not to exceed \$1,000, imprisonment not to exceed one year, or both fine and imprisonment. Penalties or punishments provided in this chapter shall be in addition to all other penalties provided by law.

(3) Any person, or officer of a corporation, convicted of continuing to engage in business after the revocation of a license shall be guilty of a gross misdemeanor and may be punished by a fine not to exceed \$5,000, or imprisonment not to exceed one year, or both fine and imprisonment.

.230 Suspension or Revocation of business registration The Licensing Officer, or designee, shall have the power and authority to suspend or revoke any license issued under the provisions of chapter 5.02.

.240 Closing agreement provisions.

The Director may enter into an agreement in writing with any person relating to the liability of such person in respect of any tax imposed by any of the chapters within this title and administered by this chapter for any taxable period(s). Upon approval of such agreement, evidenced by execution thereof by the Director and the person so agreeing, the agreement shall be final and conclusive as to the tax liability or tax immunity covered thereby, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

(1) The case shall not be reopened as to the matters agreed upon, or the agreement modified, by the Director or the taxpayer, and

(2) In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

.250 Charge-off of uncollectible taxes.

The Director may charge off any tax, penalty, or interest that is owed by a taxpayer, if the Director reasonably ascertains that the cost of collecting such amounts would be greater than the total amount that is owed or likely to be collected from the taxpayer.

.260 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances shall not be affected.

Betty Garrison

From: Patti Kirkpatrick
Sent: Thursday, February 14, 2013 9:15 AM
To: Tren Walker
Subject: RE: Manager Form of Gvt

Thanks, and Happy Valentine's Day!!
Patti

From: Tren Walker
Sent: Thursday, February 14, 2013 9:14 AM
To: Patti Kirkpatrick
Subject: Re: Manager Form of Gvt

That works for me.

Sent from my iPhone

On Feb 14, 2013, at 8:46 AM, "Patti Kirkpatrick" <pkirkpatrick@ci.pacific.wa.us> wrote:

I am in agreement. I had put it on as a placeholder, but am happy to take it off and put it on the March 4th? Will that work?

Patti

From: Tren Walker
Sent: Thursday, February 14, 2013 8:41 AM
To: Patti Kirkpatrick
Subject: Re: Manager Form of Gvt

I don't think we are even close to bringing it to council, what are your thoughts?

Sent from my iPhone

On Feb 14, 2013, at 8:29 AM, "Patti Kirkpatrick" <pkirkpatrick@ci.pacific.wa.us> wrote:

Hi Tren,

Am I correct in that the Committee does not want this item on Tuesday's agenda?

Thank you,
Patti Kirkpatrick, MMC
City Clerk/Personnel Manager
100 3rd Ave SE
Pacific WA 98047
253-929-1105