

**A G E N D A**  
**WALLA WALLA COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, NOVEMBER 14, 2016**

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**(PLEASE NOTE SLIGHTLY EARLIER START TIME THIS DATE)**

**9:15 COUNTY COMMISSIONERS**

**Chairman Johnson**

All matters listed within the Consent Agenda have been distributed to each County Commissioner for review and are considered routine. The Consent Agenda will be approved by one motion of the Board of County Commissioners with no separate discussion. If separate discussion is desired on a certain item, that item may be removed from the Consent Agenda at the request of a Commissioner, for action later.

- a) Roll call and establish a quorum
- b) Review warrant list

The county commissioners will take this time (at 9:15 a.m.) to review the list of warrants for approval under the consent agenda. This review time is open to the public. No other business will be transacted until the regular meeting start time of 9:30 a.m.

**RECESS.**

**9:30 COUNTY COMMISSIONERS**

- a) Declarations re: conflict of interest
- b) Pledge of Allegiance
- c) Public comment period (time limitations may be imposed)

***PLEASE NOTE:*** If you wish to address the Commission, please raise your hand to be recognized by the Chair. When you have been recognized, please step up to the microphone and give your name and address before your comments. The Walla Walla County Commissioners are committed to maintaining a meeting atmosphere of mutual respect and speakers are encouraged to honor this principle. (An individual may request to address the board at a later time on the agenda, if time permits, by contacting the Clerk of the Board at least 24 hours prior to the meeting.) Thank you.

- d) **Action Agenda Items:**
  - 1) Review submitted Employee Payroll Action Forms
- e) **Consent Agenda Items:**
  - 1) Resolution \_\_\_\_\_ - Minutes of County Commissioners' sessions of November 7 and 8, 2016 and special meetings of November 7, 9 and 10, 2016
  - 2) Resolution \_\_\_\_\_ - Approving out of state travel for fair board members
  - 3) Resolution \_\_\_\_\_ - Setting a date of public hearing to consider declaring certain County property as surplus (1520 Kelly Place)

**BOARD OF COUNTY COMMISSIONERS**  
WALLA WALLA COUNTY, WASHINGTON

IN THE MATTER OF  
APPROVING OUT OF STATE  
TRAVEL FOR FAIR BOARD  
MEMBERS



RESOLUTION NO.

**WHEREAS**, with the current vacancy in the position of fairgrounds manager, Walla Walla Fair and Frontier Days Board President, Sam Waldron, has requested approval for out of state travel for himself and Pat Reay, Miriam Grant, Charlie Barron, and Stan Bly, other Walla Walla Fair and Frontier Days Directors, to attend the Professional Rodeo Cowboys Association (PRCA) Convention and Trade Show held in Las Vegas, Nevada, November 28 through December 1, 2016; and

**WHEREAS**, the aforementioned fair board members may also attend the International Association of Fairs and Expositions Convention and Trade Show, also held in Las Vegas, Nevada with said events taking place during the period November 27 through 30, 2016; and

**WHEREAS**, Mr. Waldron has advised that all attendees will be personally responsible for associated travel costs, with no County funds expended; now therefore

**BE IT HEREBY RESOLVED** by this Board of Walla Walla County Commissioners that out of state travel as outlined above is approved.

**BE IT FURTHER RESOLVED** that additional time to travel to or from said events, if needed, is also approved.

*"Passed this 14<sup>th</sup> day of November, 2016 by Board members as follows: \_\_\_ Present or \_\_\_ Participating via other means, and by the following vote: \_\_\_ Aye \_\_\_ Nay \_\_\_ Abstained \_\_\_ Absent."*

Attest:

\_\_\_\_\_  
Connie R. Vinti, Clerk of the Board

\_\_\_\_\_  
James K. Johnson, Chairman, District 1

\_\_\_\_\_  
Perry L. Dozier, Commissioner, District 2

\_\_\_\_\_  
James L. Duncan, Commissioner, District 3

*Constituting the Board of County Commissioners  
of Walla Walla County, Washington*

**BOARD OF COUNTY COMMISSIONERS**  
WALLA WALLA COUNTY, WASHINGTON

IN THE MATTER OF SETTING A  
DATE OF PUBLIC HEARING TO  
CONSIDER DECLARING CERTAIN  
COUNTY PROPERTY AS  
SURPLUS (1520 KELLY PLACE)

}                   **RESOLUTION NO.**

**WHEREAS**, pursuant to Walla Walla County Resolution 15 235, Walla Walla County, through the Board of County Commissioners as the county legislative authority, declared 1520 Kelly Place, Walla Walla, a county property, as surplus to the needs of the county and authorized disposal of same by means of a sale open to the public and conducted by the County Treasurer; and

**WHEREAS**, said property is formally identified as Walla Walla County parcel number 36-07-31-21-0002, with a legal description of Lot 4 of Highland Commerce Center Short Plat filed under Auditor's File Number 9203682 in Volume 2 of Short Plats at Page 171, records of Walla Walla County, State of Washington; and

**WHEREAS**, the County Treasurer offered the property for sale on October 16, 2015, with the winning bid required to meet or exceed the minimum sale price of Three Million, one hundred thirty one thousand, seven hundred dollars (\$3,131,700) plus sale costs; however, no bids were received; and

**WHEREAS**, subsequent to an executive session during a special meeting of the Board on October 24, 2016, a motion was approved during open session that day to put this property up for sale again and established minimum bids with or without certain restrictions; and

**WHEREAS**, County legal counsel advised that the Board of County Commissioners, pursuant to RCW 36.34, should set a public hearing to consider testimony for and against disposing of any County property; now therefore

**BE IT HEREBY RESOLVED** by this Board of Walla Walla County Commissioners that the date of Monday, November 28, 2016 at the hour of 9:30 a.m. or as close thereto as possible be set for a public hearing to consider declaring said County property as surplus. The Board may also consider setting a minimum price for such sale. In addition, the Board will consider whether conditions should be placed on the sale of the property.

**BE IT FURTHER RESOLVED** that the Clerk of the Board of Walla Walla County Commissioners shall give notice of said hearing in the manner prescribed by law.

*"Passed this **14th day of November, 2016** by Board members as follows:      Present or      Participating via other means, and by the following vote:      Aye      Nay      Abstained      Absent."*

Attest:

\_\_\_\_\_  
Connie R. Vinti, Clerk of the Board

\_\_\_\_\_  
James K. Johnson, Chairman, District 1

\_\_\_\_\_  
Perry L. Dozier, Commissioner, District 2

\_\_\_\_\_  
James L. Duncan, Commissioner, District 3

*Constituting the Board of County Commissioners  
of Walla Walla County, Washington*

**COUNTY COMMISSIONERS (continued)**

**e) Consent Agenda Items (continued):**

- 4) Resolution \_\_\_\_\_ - Approval of a revised Walla Walla County Business Expenses and Travel Compensation Policy
- 5) Resolution \_\_\_\_\_ - Proclaiming November 12-20, 2016 as Hunger and Homelessness Awareness Week
- 6) Resolution \_\_\_\_\_ - Proclaiming November 11-18, 2016 as Walla Walla County Tribute to American Veterans Week
- 7) County vouchers/warrants/electronic payments as follows: \_\_\_\_\_ through \_\_\_\_\_ totaling \$ \_\_\_\_\_
- 8) Payroll action and other forms requiring Board approval

**f) Action Agenda Item:**

Proposal 2016 11-14 LTAC (Lodging Tax Advisory Committee) – Approving the recommendations from the County Lodging Tax Advisory Committee for 2017 tourism grant awards

- g)** Miscellaneous business to come before the Board
- h)** Review reports and correspondence; hear committee and meeting reports
- i)** Review of constituent concerns/possible updates re: past concerns

**BOARD OF COUNTY COMMISSIONERS**  
WALLA WALLA COUNTY, WASHINGTON

IN THE MATTER OF APPROVAL  
OF A REVISED WALLA WALLA  
COUNTY BUSINESS EXPENSES  
AND TRAVEL COMPENSATION  
POLICY



**RESOLUTION NO.**

**WHEREAS**, it was determined that the Business Expenses and Travel Compensation section of the Walla Walla County Personnel Policies and Operations Manual (PPOM) needed to be reviewed for possible revisions for clarity and to address questions that have arisen; and

**WHEREAS**, County Human Resources/Risk Manager Shelly Peters met with pertinent representatives as a review committee and a revised draft policy was compiled and then made available to county elected officials and department heads for review; and

**WHEREAS**, the committee then reviewed comments received, after which a final draft of the revised policy was submitted to the Board of County Commissioners for review, with a request for approval; and

**WHEREAS**, via Proposal 2016 11-07-HR, the Board of County Commissioners approved the policy as revised; now therefore

**BE IT HEREBY RESOLVED** by this Board of Walla Walla County Commissioners that said Business Expenses and Travel Compensation Policy, as revised, shall be formally approved.

**BE IT FURTHER RESOLVED** that said policy shall be effective as of January 1, 2017.

**BE IT FURTHER RESOLVED** that, as provided therein, nothing in this policy shall supersede the Walla Walla County Personnel Policies and Operations Manual (PPOM), and that if a discrepancy is found between this policy and the PPOM, the PPOM will give final guidance.

*“Passed this **14th day of November, 2016** by Board members as follows: \_\_\_ Present or \_\_\_ Participating via other means, and by the following vote: \_\_\_ Aye \_\_\_ Nay \_\_\_ Abstained \_\_\_ Absent.”*

Attest:

\_\_\_\_\_  
Connie R. Vinti, Clerk of the Board

\_\_\_\_\_  
James K. Johnson, Chairman, District 1

\_\_\_\_\_  
Perry L. Dozier, Commissioner, District 2

\_\_\_\_\_  
James L. Duncan, Commissioner, District 3

*Constituting the Board of County Commissioners  
of Walla Walla County, Washington*

**BOARD OF COUNTY COMMISSIONERS**  
WALLA WALLA COUNTY, WASHINGTON

IN THE MATTER OF  
PROCLAIMING NOVEMBER 12-  
20, 2016 AS NATIONAL  
HUNGER AND HOMELESS  
AWARENESS WEEK



RESOLUTION NO.

**WHEREAS**, for the past several years the National Coalition for the Homeless and National Student Campaign Against Hunger and Homelessness have sponsored National Hunger and Homeless Awareness Week; and

**WHEREAS**, the Walla Walla County Commissioners recognize that hunger and homelessness continues to be a serious problem for many individuals and families in Walla Walla County; now therefore

**BE IT HEREBY RESOLVED** by this Board of Walla Walla County Commissioners that they shall sign a proclamation declaring November 12-20, 2016 as National Hunger and Homeless Awareness Week in Walla Walla County.

Passed this 14<sup>th</sup> day of **November, 2016** by Board members as follows:      Present or      Participating via other means, and by the following vote:      Aye      Nay      Abstained      Absent.

Attest:

\_\_\_\_\_  
Connie R. Vinti, Clerk of the Board

\_\_\_\_\_  
James K. Johnson, Chairman, District 1

\_\_\_\_\_  
Perry L. Dozier, Commissioner, District 2

\_\_\_\_\_  
James L. Duncan, Commissioner, District 3

*Constituting the Board of County Commissioners  
of Walla Walla County, Washington*

# PROCLAMATION

**WHEREAS**, for the past several years the National Coalition for the Homeless and National Student Campaign Against Hunger and Homelessness have sponsored National Hunger and Homeless Awareness Week; and

**WHEREAS**, setting aside this week is intended to help inform the public about the many reasons people are hungry and homeless, including the shortage of affordable housing in Walla Walla County for very low income residents, and to encourage support for homeless assistance service providers as well as community service opportunities for students and school service organizations; and

**WHEREAS**, there are many organizations, including the Christian Aid Center, Helpline, and Blue Mountain Action Council, committed to sheltering and providing supportive services to the homeless, as well as meals and food supplies; and

**WHEREAS**, the focus of National Hunger and Homeless Awareness Week 2016 is on the laws passed by local governments around the nation which prevent people experiencing homelessness from doing life-sustaining activities ; and

**WHEREAS**, the Walla Walla County Commissioners recognize that hunger and homelessness continues to be a serious problem for many individuals and families in Walla Walla County; now therefore

**BE IT HEREBY RESOLVED** by this Board of Walla Walla County Commissioners that they do hereby proclaim

**NOVEMBER 12-20, 2016 as  
NATIONAL HUNGER AND HOMELESS AWARENESS WEEK**

in Walla Walla County, and encourage all citizens to recognize that many people do not have housing and need support from citizens, and private/public nonprofit service entities.

Dated this 14th day of November, 2016, at Walla Walla County, Washington

**BOARD OF COUNTY COMMISSIONERS  
WALLA WALLA COUNTY, WASHINGTON**

\_\_\_\_\_  
James K. Johnson, Chairman, District 1

Attest:

\_\_\_\_\_  
Perry L. Dozier, Commissioner, District 2

\_\_\_\_\_  
Connie R. Vinti, Clerk of the Board

\_\_\_\_\_  
James L. Duncan, Commissioner, District 3

**BOARD OF COUNTY COMMISSIONERS**  
WALLA WALLA COUNTY, WASHINGTON

IN THE MATTER OF PROCLAIMING  
NOVEMBER 11-18, 2016 AS  
WALLA WALLA COUNTY TRIBUTE  
TO THE AMERICAN VETERANS  
WEEK



RESOLUTION NO.

**WHEREAS**, Veterans Day this year, we have the distinguished honor of recognizing all of those brave men and women who have served their country throughout history, now therefore

**BE IT HEREBY RESOLVED**, by this Board of Walla Walla County Commissioners, that they sign a proclamation proclaiming November 11-18, 2016 as Walla Walla County Tribute to American Veterans Week and urge all citizens to join in this observation.

Passed this 14<sup>th</sup> day of **November, 2016** by Board members as follows:      Present or      Participating via other means, and by the following vote:      Aye      Nay      Abstained      Absent.

**Attest:**

\_\_\_\_\_  
Connie R. Vinti, Clerk of the Board

\_\_\_\_\_  
James K. Johnson, Chairman, District 1

\_\_\_\_\_  
Perry L. Dozier, Commissioner, District 2

\_\_\_\_\_  
James L. Duncan, Commissioner, District 3

*Constituting the Board of County Commissioners  
of Walla Walla County, Washington*



# PROCLAMATION

*WHEREAS*, Veterans Day is a designated time to honor both past and present American service men and women who have fought to keep this and other countries free; and

*WHEREAS*, as we prepare to celebrate Veterans Day this year, we have the distinguished honor of recognizing all of those brave men and women who have served their country throughout our history; now therefore

**WE THE BOARD OF COMMISSIONERS OF THE COUNTY OF WALLA WALLA**, do hereby proclaim November 11-18, 2016 as

## **WALLA WALLA COUNTY TRIBUTE TO AMERICAN VETERANS WEEK**

and urge all citizens to join in this observance.

Dated this 14th day of November, 2016, at Walla Walla County, Washington

### **BOARD OF COUNTY COMMISSIONERS WALLA WALLA COUNTY, WASHINGTON**

\_\_\_\_\_  
James K. Johnson, Chairman, District 1

Attest:

\_\_\_\_\_  
Perry L. Dozier, Commissioner, District 2

\_\_\_\_\_  
Connie R. Vinti, Clerk of the Board

\_\_\_\_\_  
James L. Duncan, Commissioner, District 3

**9:45**

**TECHNOLOGY SERVICES DEPARTMENT**

**Kevin Gutierrez**

- a) Department update and miscellaneous



**WALLA WALLA COUNTY**  
**Technology Services Department**

Kevin G. Gutierrez  
Technology Services Director

315 W. Main Street, Rm 101 - Walla Walla, Washington 99362

(509) 524-2590

kgutierrez@co.walla-walla.wa.us

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File: GS50-06F-03

Retain: Until Obsolete or Superseded – PAV

November 14, 2016

To: Walla Walla County Board of Commissioners

Re: Department Update

**Issues/Information for the Board.**

- N/A

**Components (Main infrastructure)**

**Hardware**

- No issues

**Software**

- No issues

**Security/Viruses**

- No issues

**Network**

- No issues

**Other Projects**

- **Judges/Clerks Case Management and Document Management Systems**
  - Clerk had a demo of OnBase (document mgt system)
  - Taking a serious look at using this system.
  - Replaces Liberty (what the clerk is now using)
  - No cost upgrade but may be cost to migrate data – we are entitled to this upgrade
  - Has the ability to search and redact but needs some upgrades to help us with PRA requests.
    - They are willing to work with us!
  - Also, manages document retention
  - We already own it, but will need some additional licensing (we already own several but need to make sure we have the right licenses)
  - Trying to set up a meeting with OnBase in Stevenson WA. On 11/15 or 11/16
  - Stevenson is also going to OnBase
  - Clark County is in progress for
  - Possible to start the project before end of this year
- **Budget /Assets**
  - Comprehensive is starting to surplus equipment
- **New World**
  - Data mapping exercise is in progress
  - New World is trying to fix issues with the conversion
- **Security Training**
  - Purchased KnowBe4
    - Mandatory Training for new employees?

- How about current employees?
- **Camera's**
  - Received part of the estimate – Courthouse.
  - Did a second walk-through with a vendor to get an estimate.
    - No response yet
- **Surplus Equipment**
  - Notified Tom that surplus needs to be hauled off
- **Superior Court 1-2 Updates**
  - I have required the installer to come back to conceal some cables that would otherwise run across the floor.
- **O-365**
  - Migration planning is in progress
- **Public Record Requests Last 2 Weeks**
  - 9 = Requests received
  - 1 = Forwarded to departments
  - 5 = Completed
  - 1 = Pending Closure
  - 26 = Open/Being handled by the PRO
  - 14 = Requests handled last 2-week period
- **Search Tool Replacement**
  - Before continuing, I want to take a good look at OnBase.

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**Definitions**

**ACCIS = Association of County, City Information Systems (managers)**

**CITRIX = A product used for remote access to our network**

**PAV = Potential Archival Value**

**CJIS = Criminal Justice System Information Systems**

**AOC = Administrative Office of the Courts**

**PRO = Public Records Officer**

**USB = Universal Serial Bus**

**DOL = Department of Licensing**

**NDA = Non-disclosure agreement**

**RFP = Request For Pricing**

**GIS = Geographic Information Systems**

**EOL = End of Life**

**JCDA = Joint Community Development Agency**

**W7 = Windows 7**

**W10 = Windows 10**

**OS = Operating System**

**JAVS = (Jefferson Audio Video Systems) – Courtroom Recording System**

**AV = Audio/Visual**

**WiFi = Wireless network connectivity (Wireless Fidelity)**

**FTP = File Transfer Protocol (file transfer server)**

**CAD = Computer Aided Dispatch (hosted at the city)**

**CAT5 = Category 5 Ethernet cable (for data and voice)**

**ADA = Americans with Disabilities Act**

**ECM = Enterprise Content Management**

**NWS = New World Systems**

**DOMAIN = A group of computers administered or managed with the same rules and policies and with a common IP range.**

**IP address = Internet protocol address. A unique string of numbers assigned to each computer to allow communications over network or domain.**

**PENERATION TESTING = A process designed to have outside companies try to break into our system to identify and potential soft spots in our network.**

10:00

FACILITIES MAINTENANCE DEPARTMENT

Tom Byers

a) **Action Agenda Items:**

- 1) Proposal 2016 11-14 Maint-1  
Bid award for Walla Walla  
County Parking Lot Lights  
Retrofit Project
- 2) Proposal 2016 11-14 Maint-2  
Bid award for Walla Walla  
County Public Safety Building  
Vinyl Replacement Project
- 3) Execute Department of Energy  
Services Energy Program COP-FA  
Coversheet for Project 2013-042 I  
(5-1) #1 County Jail Chiller & HVAC  
Upgrades

a) Department update and miscellaneous



# MEMO

Date: November 9, 2016

Proposal ID. 2016 11-14 Maint-1

To: BOCC

From: Tom Byers

## **Intent – Decision**

**Topic** – Approval of Bid award for the replacement and installation of retrofit LED lights for the parking lots at County Jail, Juvenile Justice Center, Public Safety Building, County Public Health and Legislative Building, and the District Court Building.

## **Summary**

Walla Walla County Facilities Maintenance Department requested bids/quotes utilizing the limited public works procedures (Resolution 11-115) for the replacement and installation of retrofit LED lights. New LED lights will be energy savings and reduce the need to have replaced every 4 to 5 years with the current lighting systems.

On November 9, 2016 at 10:00 a.m. two qualified bids were received for this project:

Doyle Electric                      \$10,828.12 (includes tax)

Walla Walla Electric              \$10,558.94 (includes tax)

## **Scope of Work**

Replace existing parking lot lighting systems by installing LED retrofit kits to County Jail replace five (5) existing round 400 watt HPS lamps; Juvenile Justice Center replace four (4) existing shoe box 250 watt halide lamps; Public Safety Building replace four (4) existing shoe box 200 watt metal halide lamps; County Public Health and Legislative Building replace four (4) existing shoe box 400 watt metal halide lamps; and District Court Building replace five (5) existing 75 watt HID wall pack fixtures with Global Tech Led 75 w- 135 w screw in yoke kits part # SR16-5R3.

## **Costs**

Includes all materials, labor, electrical permits and related costs to complete project with no exclusions. With this project we will be able to claim an energy savings incentive from Pacific Power and Light for 14% of the total cost or approximately \$1,320.30.

**Project Time Schedule**

Due to the fact that these areas are public and will need to be open for business, this project will need to be completed after hours and/or on weekends. After award, the project completion date will be determined by the County and contractor but must be completed prior to December 30th, 2016.

**Funding**

Facilities Maintenance repairs and maintenance budget line item 18.30.48.0000 will be used to pay for this project.

**Conclusion/Recommendation**

Recommend that the Board of County Commissioner approve the bid of \$10,558.94 to Walla Walla Electric, as the lowers responsible bidder.

Submitted By			Disposition
			<input type="checkbox"/> Approved
Tom Byers	Facilities Manager	11-9-2016	<input type="checkbox"/> Approved with modifications
Name	Department	Date	<input type="checkbox"/> Needs follow up information
			_____
			BOCC Chairman
			Date

**Additional Requirements to Proposal**

Modification

Follow Up

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# MEMO

Date: November 9th, 2016

Proposal ID. 2016 11-14 Maint-2

To: BOCC

From: Tom Byers

## **Intent – Decision**

**Topic** – Approval of Bid award for the replacement and installation of the vinyl flooring in the Public Safety Building housing the Sheriff's Offices and Prosecuting Attorney's office located at 240 West Alder, Walla Walla.

## **Summary**

Walla Walla County Facilities Maintenance Department requested bids/quotes utilizing the limited public works procedures (Resolution 11-115) for the replacement and installation of vinyl flooring in the Public Safety Building. The current flooring is original to the building and in need of replacement due to wear.

On November 9<sup>th</sup>, 2016 at 10:00 a.m. one qualified bid was received for this project:

Conner's Flooring & Design      \$20,913.59

## **Scope of Work**

Replace existing flooring with light commercial sheet vinyl in the front main lobby and restroom, breakroom, men's and women's restrooms, and the back hallway on the first floor and; on the second floor in the Prosecuting Attorney's offices in the front main lobby, breakroom and men's and women's restrooms. Remove the existing vinyl flooring and if necessary use ready mix floor lever to smooth out all uneven areas prior to new flooring insulation. All materials supplied including but not limited to vinyl sheet, adhesives, 4" and 6" rubber base, and all vinyl to carpet transitions. County staff will remove all items including toilet stalls, appliances, furniture and other items to allow open area for the installation. Bid/quote includes the cost if the ¼ plywood underlayment is damaged after the existing vinyl and vinyl composite tile is removed.

## **Costs**

Includes all materials, labor, equipment, demo, haul-off and dump fees, permits, state sales tax and all other related costs. Due to the fact that the building will need public access, this project will need to be completed after hours and/or on weekends. Labor costs are listed at time and a half.



**Project Time Schedule**

After award, the project completion date will be determined by the County and contractor but must be completed prior to December 30th, 2016.

**Funding**

Law and Justice Building fund will be used to pay for this project.

**Conclusion/Recommendation**

Recommend that the Board of County Commissioner approve the bid of \$ \$20,913.59 to Conner's Flooring & Design.

Submitted By			Disposition
			<input type="checkbox"/> Approved
Tom Byers	Facilities Manager	11-9-2016	<input type="checkbox"/> Approved with modifications
Name	Department	Date	<input type="checkbox"/> Needs follow up information
			<hr/>
			BOCC Chairman
			Date

**Additional Requirements to Proposal**

Modification

Follow Up

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# DES Energy Program COP-FA Coversheet

Client Name Walla Walla County  
 Project Number 2013-0421 (5-1)  
 COP/FA Number #1  
 Project Title County Jail Chiller & HVAC Upgrades  
 Date 11/3/2016


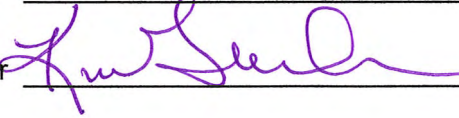
Construction			
Mikes HVAC & Air Cleaning		\$	8,650.00
Subtotal		\$	8,650.00
Bond	1.30%	\$	112.45
Subtotal		\$	8,762.45
Sales Tax	8.90%	\$	779.86
Construction Subtotal		\$	9,542.31

Professional Services	Percent		
OH	10.0%	\$	865.00
CM	6.0%	\$	519.00
P	8.0%	\$	692.00
Subtotal		\$	2,076.00
Sales Tax	8.90%	\$	184.76
PS Subtotal		\$	2,260.76

Total Cost of Change

\$ **11,803.07**

Use contingency funds
  Use additional owner funds

Acknowledgement of Total Cost of Change		Date
Client	_____	
ESCO		11/10/16
Energy Project Manager		11/10/16

**10:15**

**COUNTY CORRECTIONS DEPARTMENT**

**Mike Bates**

- a) Department update and miscellaneous

**a) Consent Agenda Items:**

- 1) Resolution \_\_\_\_\_ - Setting a public hearing date for Raymond Reser DBA Reser Ranch, Inc. for a franchise to construct, operate, and maintain a utility system within the county road right of way
- 2) Resolution \_\_\_\_\_ - Use of county roads for the Walla Walla University 5K Walk/Run
- 3) Resolution \_\_\_\_\_ - Approval of Federal Grant Requirement for Signature Authority
- 4) Resolution \_\_\_\_\_ - Signing an Interlocal Contract for Cooperative Purchasing with Houston-Galveston Area Council (H-GAC)

**b) Department update and miscellaneous**

**BOARD OF COUNTY COMMISSIONERS**  
WALLA WALLA COUNTY, WASHINGTON

IN THE MATTER OF SETTING A  
PUBLIC HEARING DATE FOR  
RAYMOND RESER dba RESER  
RANCH, INC. FOR A FRANCHISE  
TO CONSTRUCT, OPERATE, AND  
MAINTAIN A UTILITY SYSTEM  
WITHIN THE COUNTY ROAD RIGHT  
OF WAY, IN WALLA WALLA  
COUNTY, WASHINGTON



**RESOLUTION NO.**

**WHEREAS**, Raymond Reser dba Reser Ranch, Inc. has requested a franchise to construct, operate, and maintain a utility system within the public right of way in Walla Walla County; now therefore

**BE IT HEREBY RESOLVED** by this Board of Walla Walla County Commissioners that a public hearing date be set for December 5, 2016 in the Commissioners' Chambers, County Public Health and Legislative Building, located at 314 West Main Street, Walla Walla, Washington, at the hour of 10:30 a.m. or as soon thereafter as such hearing may be held.

Passed this 14<sup>th</sup> day of **November, 2016** by Board members as follows:      Present or      Participating via other means, and by the following vote:      Aye      Nay      Abstained      Absent.

**Attest:**

\_\_\_\_\_  
Connie R. Vinti, Clerk of the Board

\_\_\_\_\_  
James K. Johnson, Chairman, District 1

\_\_\_\_\_  
Perry L. Dozier, Commissioner, District 2

\_\_\_\_\_  
James L. Duncan, Commissioner, District 3

*Constituting the Board of County Commissioners  
of Walla Walla County, Washington*

**BOARD OF COUNTY COMMISSIONERS**  
WALLA WALLA COUNTY, WASHINGTON

**IN THE MATTER OF USE OF  
COUNTY ROADS FOR THE  
WALLA WALLA UNIVERSITY 5K  
WALK/RUN**



**RESOLUTION NO.**

**WHEREAS**, Walla Walla University is hosting a 5K Walk/Run; and

**WHEREAS**, said event will be held on Sunday, December 4, 2016 beginning at 9:00 AM and ending at approximately 10:00 AM; and

**WHEREAS**, the event organizers have agreed to notify emergency services prior to the event for the necessary safety and emergency services information; and

**WHEREAS**, the event organizers shall provide traffic control, signage and flaggers in accordance with the approved Special Event Permit; and

**WHEREAS**, the event organizers have provided a certificate of insurance naming Walla Walla County as additional insured and have agreed to include Walla Walla County in their registration/release waiver; and

**WHEREAS**, the event organizers shall provide a news release to the local newspapers announcing the event date; now therefore

**BE IT HEREBY RESOLVED**, by this Board of Walla Walla County Commissioners, that permission be granted to Walla Walla University to use W. Whitman Drive, Grandview Avenue, Brickner Road, Clarence Avenue, and Valley Street on Sunday, December 4, 2016.

*Passed this 14<sup>th</sup> day of **November, 2016** by Board members as follows:      Present or      Participating via other means, and by the following vote:      Aye      Nay      Abstained      Absent.*

**Attest:**

\_\_\_\_\_  
Connie R. Vinti, Clerk of the Board

\_\_\_\_\_  
James K. Johnson, Chairman, District 1

\_\_\_\_\_  
Perry L. Dozier, Commissioner, District 2

\_\_\_\_\_  
James L. Duncan, Commissioner, District 3

*Constituting the Board of County Commissioners  
of Walla Walla County, Washington*

**BOARD OF COUNTY COMMISSIONERS**  
WALLA WALLA COUNTY, WASHINGTON

**IN THE MATTER OF FEDERAL  
GRANT REQUIREMENTS FOR  
SIGNATURE AUTHORITY**



**RESOLUTION NO.**

**WHEREAS**, Federal Grant requirements nationwide have been consolidated and detailed in 2 CFR 200 "Super Circular"; and

**WHEREAS**, part of the changes included in the CFR directly affect the signature authority on reimbursement requests; and

**WHEREAS**, to assure expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and fiscal reports or vouchers requesting payment under the agreements must include a certification signed by an official who is authorized to legally bind the non-Federal entity; and

**WHEREAS**, the Board of Walla Walla County Commissioners delegates authority to sign annual and final fiscal reports and vouchers requesting payment for federal grants to the following individuals;

Walla Walla County Public Works Director/County Engineer  
Walla Walla County Public Works Chief Fiscal Officer

now therefore;

**BE IT HEREBY RESOLVED** by this Board of Walla Walla County Commissioners that said authority for Federal Grant signatures be authorized as stated above.

*Passed this 14<sup>th</sup> day of **November, 2016** by Board members as follows:      Present or      Participating via other means, and by the following vote:      Aye      Nay      Abstained      Absent.*

**Attest:**

\_\_\_\_\_  
Connie R. Vinti, Clerk of the Board

\_\_\_\_\_  
James K. Johnson, Chairman, District 1

\_\_\_\_\_  
Perry L. Dozier, Commissioner, District 2

\_\_\_\_\_  
James L. Duncan, Commissioner, District 3

*Constituting the Board of County Commissioners  
of Walla Walla County, Washington*

**BOARD OF COUNTY COMMISSIONERS**  
WALLA WALLA COUNTY, WASHINGTON

IN THE MATTER OF SIGNING AN  
INTERLOCAL CONTRACT FOR  
COOPERATIVE PURCHASING  
WITH HOUSTON-GALVESTON  
AREA COUNCIL (H-GAC)



RESOLUTION NO.

**WHEREAS**, the Houston-Galveston Area Council (H-GAC) was created by the State of Texas to serve counties, cities, towns, public or private; and

**WHEREAS**, H-GAC assists at no cost in meeting specific purchasing needs of clients in procuring equipment, goods and supplies; and

**WHEREAS**, it is in the best interest of Walla Walla County to work cooperatively with H-GAC; now therefore,

**BE IT HEREBY RESOLVED** by this Board of Walla Walla County Commissioners they do hereby approve and shall enter into said contract with H-GAC for equipment and/or supplies for the Department of Public Works, and that the Chair of the Board shall sign same in the name of the Board.

Passed this 14<sup>th</sup> day of **November, 2016** by Board members as follows:      Present or      Participating via other means, and by the following vote:      Aye      Nay      Abstained      Absent.

Attest:

\_\_\_\_\_  
Connie R. Vinti, Clerk of the Board

\_\_\_\_\_  
James K. Johnson, Chairman, District 1

\_\_\_\_\_  
Perry L. Dozier, Commissioner, District 2

\_\_\_\_\_  
James L. Duncan, Commissioner, District 3

*Constituting the Board of County Commissioners  
of Walla Walla County, Washington*



**Walla Walla County Public Works  
PO Box 813  
Walla Walla, WA 99362**

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To: Board of County Commissioners

From: Randy Glaeser, Public Works Director

Date: 10 November 2016

Re: Director's Report for the Week of 7 November 2016

**Board Action: 14 November 2016**

**Resolutions:**

**In the Matter of Setting a Public Hearing Date for Raymond Reser, DBA Reser Ranch, Inc. for a Franchise to Construct, Operate, and Maintain a Utility System within the County Road Right of Way**  
**In the Matter of Use of County Roads for the Walla Walla University 5K Walk/Run**  
**In the Matter of Federal Grant Requirement for Signature Authority**  
**In the Matter of Signing a Interlocal Contract Purchasing Agreement with H-GAC**

**ENGINEERING:**

- Mill Creek FH: Hearing set for Use and Necessity. Six remaining property owners need to sign.
- Pflugrad Bridge: Starting Cultural survey. Due to deteriorating condition of the bridge, construction will be set for 2017.
- Mill Creek Road MP 1.1 to MP 3.96: Acquisition to begin as time allows.
- Blue Creek Bridge: ROW acquisition in progress.
- Scenic Loop Road: In design.
- Pemberton Bridge on Barney Road: Received Corps of Engineers and HPA permit and awaiting other permits.

**MAINTENANCE:**

- Crews completed stormwater projects on Sunset Drive in Burbank.
- Preliminary preparations underway for relocation of fuel tank from Touchet to Dell Avenue Garage site.

**ADMINISTRATION:**

- Conducted quarterly labor management meeting.
- Two mechanics hired to fill vacancies; will start 21 November.
- Attended Mill Creek Coalition meeting.

**10:45**

**PROSECUTING ATTORNEY**

**Jim Nagle/Jesse Nolte**

- a)** Miscellaneous business for the Board
- b)** Possible executive session re:  
litigation or pending or potential  
litigation (pursuant to RCW 42.30.110(i))

11:00

**HUMAN RESOURCES/RISK MANAGER**

**Shelly Peters**

- a) Department update and miscellaneous
- b) **Active Agenda Items:**
  - 1) Possible discussion/decision re: any pending claims against the County
- c) **Action Agenda Items:**
  - 1) Job Description approval form for Chief Deputy for the Assessor's Office
- d) Possible executive session re: personnel (pursuant to RCW 42.30.110(g)), collective bargaining negotiations (pursuant to RCW 42.30.140(4)(b)), and/or litigation or pending or potential litigation (pursuant to RCW 42.30.110(i))

**11:15**

**COUNTY COMMISSIONERS**

**a) Action Agenda Item:**

- 1) Final review of funding options and discussion of potential processes regarding homeless and affordable housing, if/as needed, possibly followed by decision on future actions

**b) Miscellaneous or unfinished business to come before the Board**

**12:00**

**RECESS**

1:30

**COUNTY COMMISSIONERS**

- a) County Hearing Examiner's annual report to the Board of County Commissioners
- b) Report of meetings with elected officials and department heads re: 2017 Preliminary County Budget
- c) Miscellaneous or unfinished business to come before the Board

**- A D J O U R N -**

*Walla Walla County is ADA compliant. Please contact TTY: (800) 833-6384 or 7-1-1 or the Commissioners' Office at 509/524-2505 three (3) days in advance if you need any language, hearing, or physical accommodation.*

*Please note that the agenda is tentative only. The Board may add, delete, or postpone items and may take action on an item not on the agenda.*

**REPORT OF THE HEARING EXAMINER TO THE  
WALLA WALLA COUNTY BOARD OF COMMISSIONERS  
NOVEMBER 2016**

Greetings Commissioners,

Please accept this report from the County's hearing examiner. As of this August 2016, I've been serving as the County's hearing examiner for eleven years.

As in previous years, this report will give brief descriptions of some of the more interesting cases heard and will conclude with a few comments on challenges that have arisen in the context of interpreting and applying the Walla Walla County Code in specific cases.

**I. Case Dispositions**

There have been twenty decisions on permits and appeals since the last hearing examiner report and two requests for reconsideration. All requested permits were issued with conditions. Rather than constituting evidence that I am a softie, this record reflects the fact that the Community Development Department effectively works with developers in the County to achieve projects that are capable of complying with applicable County regulations and policies prior to hearing.

Cases heard by me during this period included five B&B CUPS, five shoreline permits for public and commercial utility and infrastructure projects, one appeal of an administrative interpretation, one code enforcement appeal, one variance from zoning standards, one wedding/event center CUP amendment, one other recreational facility CUP, two winery CUPs (same operator, two locations), two CUPs for alterations to existing utility facilities, and one business park development agreement.

In this reporting period, to my knowledge, there has been only one appeal of my decisions to Superior Court, which was the La Granja code enforcement appeal. My understanding is that my decision (that the code was violated) has been upheld by Benton County Superior Court; however, the related appeal of the resulting penalties, decided by the County's pro tem examiner, has not yet been finally resolved by the court.

A table of case dispositions follows.

<b>Hearing Date</b>	<b>Case Number</b>	<b>Case Name</b>	<b>Disposition</b>
12/8/2014	P14-137	Palmer Bed & Breakfast CUP	Approved with conditions 12/30/2014
1/2/2015	P14-155	Scoular/Port of Walla Walla SSDP	Approved with conditions 1/16/2015
2/9/2015	P14-164	County Public Works Mill Creek Road Bridge SSDP	Approved with conditions 2/24/2015  Reconsideration Denied 3/19/2015
4/13/2015	APP15-001	Don Johnson Trailer Sales	Appeal denied 4/27/2015

		Appeal	
5/11/2015	CUP15-003	Wallula Substation Expansion	Approved with conditions 5/26/2015
6/8/2015	VAR15-004	Morasch Variance	Approved with conditions 6/22/2015
6/8/2015	CUP15-005	Creekstone Gardens Wedding and Event Center Revision	Approved with conditions 6/22/2015
7/13/2015	CUP15-004	L'Eritage Bed and Breakfast	Approved with conditions 7/27/2015
8/10/2015	CUP15-007	Doubleback Winery CUP	Approved with conditions 8/24/2015
8/10/2015	CUP15-06	Jumpin' Jellybeans	Approved with conditions 8/24/2015
9/14/2015	SHR15-001	Charbonneau Bait Shop SSDP/SCUP	Approved with conditions 9/28/2015
9/14/2015	SHR15-002	Gailey Bridge Project SSDP	Approved with conditions 9/28/2015
10/12/2015	SHR15-003	Schnitzer Steel SSDP	Approved with conditions 11/2/2015
10/12/2015	DA-15-01	Burbank Business Park Development Agreement	Approved with conditions 11/12/2015
1/11/2016	APP15-003/ CE15-0067	LaGranja Farms LLC Appeal	Appeal denied 2/10/2016  Reconsideration Denied 3/2/2016
6/13/2016	CUP16-001	The Barn Bed & Breakfast, CUP	Approved with conditions 6/27/2016
6/13/2016	CUP 16-003	Pacific Power Transmission Line Amendment	Approved with conditions 6/27/2016
7/11/2016	CUP15-009	Eritage Estates Pond Bungalows B&B	Approved with conditions 8/8/2016
7/11/2016	CUP15-010	Eritage Estates Vineyard Bungalows B&B	Approved with conditions 8/8/2016
10/12/2016	CUP16-010	Doubleback Winery CUP16- 010	Approved with conditions 10/24/2016

## II. Pro Tem Examiner

Case volume in 2015 held steady from previous case volumes, with approximately nine dockets during year. My cases in 2016 have been fewer, both because there were more months with no hearings and because I was out for a medical issue (successful back surgery).

At my request, the County appointed a *pro tem* examiner to provide service either in the event of a scheduling or a party/case-related conflict. Since I began the hearing examiner system in Walla Walla County in 2005, I have never encountered a case-related conflict, but of course it's always possible. I have also never encountered personal unavailability for a regularly scheduled hearing calendar in Walla Walla County until this year. It is of great benefit to both the County and myself to have a pro tem appointed and ready to go in the event of late breaking conflicts.

### III. Overview of Some Specific Cases

Following is a more detailed description of the decisions that present interesting discussion points.

- Walla Walla County Public Works Mill Creek Road Bridge SSDP14-164: The Public Works Department requested a critical areas permit and a shoreline substantial development permit to remove and replace the existing Mill Creek Road Bridge at its crossing of Mill Creek. The project involved realignment of Mill Creek upstream of the bridge, improving approximately 7,000 linear feet of Mill Creek Road to include replacement of the Klicker Creek and other culverts, and construction of an earthen berm along the creek upstream of the bridge. The purpose of the project was to enhance and preserve access along Mill Creek Road, reduce high-water damage to the road, bridge, and adjacent private properties thereby reducing operation and maintenance costs, increase safety and efficiency of the road, and to address water quality concerns in Mill Creek, a shoreline subject to the jurisdiction of the Walla Walla County Shoreline Master Program. People who testified at the public hearing were generally in favor of improvements to the bridge based on a lengthy history of flooding problems; however, they had many concerns about the public involvement process leading up to the hearing as well as concerns including: whether the proposed replacement mitigation wetlands could worsen historic flooding conditions on individual parcels; impacts to wildlife and adjacent parcels from removal of existing roadside hedgerows which provide habitat for several species; the proposed replacement with native grasses, which do not generally provide equivalent habitat; impacts to the existing hummingbird migratory route away from a specific parcel impacted by the project; impacts to agricultural activities; whether the proposed reductions in lot sizes might render lots unbuildable; and other concerns. It was a contentious project and a well attended hearing. However, Public Works submitted evidence demonstrating compliance with the criteria for approval and the permit was granted.
- Don Johnson Trailer Sales Appeal, APP15-001: At the request of a property owner, the Community Development Director issued a code interpretation regarding whether the use conducted by the Appellant was allowed in the underlying AR-10 zone. The Director determined that the operation meets the definition of five listed land uses: Automotive Dealers; Durable Goods/Wholesale; Retail, Miscellaneous; Repair Shops and Services (non-automotive); and/or Heavy Equipment Sales/Rental, none of which is allowed in the AR-10 zone. The Appellant argued that its use, which it argued should be characterized as "livestock trailer sales," "agricultural equipment sales," or "limited commercial operations that support agriculture", is not listed in a land use table, and that the use should be determined to be an allowed use pursuant to the Director's discretionary application of the criteria of WWCC 17.16.013. The Appellant requested that the Community Development Director amend his interpretation pursuant to Walla Walla County Code (WWCC) 17.16.013, which authorizes the Director to "determine whether a proposed land use not specifically listed in a land use table is allowed in a zone," based on the use's consistency with the purposes of the zoning ordinance and with the purposes of the zone. The Director declined. While the Appellant put forward a well-formulated and thoughtful argument, the argument failed to show that the Director's interpretation of the permitted uses table is wrong. In cases



of code interpretation especially, Washington courts have held that considerable deference must be given to the interpretation of a statute or ordinance by those charged with its enforcement.

- LaGranja Farms LLC Appeal, No. 15-03, C15-0067: Operators of a marijuana grow operation appealed a code enforcement notice of violation. Their appeal was denied and the violation was upheld. A related appeal to this item is still under appeal in the Superior Court and this report will not discuss the merits of the appeal or my decision. However, I will discuss the County's code enforcement regulations below.
- Eritage Estates Vineyard Bungalows B&B, No. CUP15-010 and Eritage Estates Pond Bungalows B&B, No. CUP15-009: A single developer proposed two Type II Bed and Breakfast Guesthouse, comprised of ten lodging units each in attached and detached accessory buildings, a primary dwelling unit, and associated site amenities, on adjacent parcels. These parcels were contiguous with the one housing the L'Eritage B&B approved in 2015. Several neighboring property owners attended the 2016 public hearing, some of whom had also attended the 2015 public hearing, and expressed concerns regarding: adverse construction impacts in terms of noise, dust, and pollution; concern over whether the installation of the septic system would be adequately supervised; whether the proposed domestic water well and/or continued irrigation of crops on-site would impact, or be allowed to impact, neighboring wells; what neighbors' recourse would be if the use were to negatively impact the quantity or quality of water in neighboring wells; whether the on-site septic system would adversely affect surrounding wells; whether the irrigation pond could fail and cause flooding on adjacent parcels; that increased traffic from the B&B would raise dust on the primitive segment of Bergevin Springs Road; roads in the area, which are not all paved; and concern regarding the adequacy of the exiting sight distance to the north on Highway SR 125. At the 2016 hearing, one neighbor brought an attorney who argued that the several detached accessory structures should be considered accessory dwelling units and limited to one each, among other arguments. In the end, both B&B CUPs were approved with conditions because each application demonstrated compliance with criteria for approval. These cases are further addressed below.

#### **IV. Discussion of Issues in Code Application**

##### ***1. The Eritage Vineyard and Bungalow B&Bs***

Each of the three Eritage B&Bs independently satisfied criteria for CUP approval and comported with applicable Code provisions. However approval resulted in three B&Bs on contiguous parcels under one ownership totaling 30 lodging units. To neighbors, opponents, and reasonable persons, such a result arguably more closely resembles a large commercial hotel operation than a bed and breakfast as defined in the Code and as generally thought of.

Of course, Ordinance No. 445 adopted June 27, 2016, amended WWCC Chapter 17.08 (Definitions) and WWCC 17.16.014 (Permitted Uses) and restricted Type II bed and breakfast guesthouses in agricultural zones to not more than three residential buildings per lot, including the primary dwelling unit and any accessory building that contains a lodging unit or farmworker dwelling unit. (The Eritage proposals vested prior to the effective date of the Ordinance.)

In the wake of this code amendment, it is still possible for contiguous parcels in common ownership to amass more units than the three buildings allowed, which would have a similar, if smaller in scale, result.

If contiguous ownership of multiple parcels was not already considered in adopting Ordinance 445, the Board may wish to consider further clarification as to whether B&Bs should be specifically restricted from creating this amassed lodging unit outcome. If not previously considered and deemed acceptable, this could be addressed by a simple statement prohibiting B&Bs on contiguous parcels in common ownership.

## 2. Code Enforcement

In my years as the County's hearing examiner, there have been only three or four code enforcement cases in total. Because there is not a regular code enforcement docket, the County lacks a well established manner of processing and addressing appeals of notices of violation. Compared to other codes with which I work, WWCC Chapter 14.13 is pretty sparse on code enforcement appeal procedures; rather it relies on the appeal procedures established for land use matters in Chapter 14.11. However, code enforcement appeals are distinct from land use appeals and deserve their own procedural treatment in the County Code.

Because code enforcement is complaint driven and appeals only result when parties choose to fight rather than bring properties/uses into compliance, it is not possible to forecast whether there will be a higher volume of code enforcement in the future. However, based on the difficulties in the La Granja appeal, I would urge the County to beef up its adopted code enforcement procedures and to adopt code enforcement rules of procedure, which would facilitate smoother appeal processes.

In my more than a decade of land use hearings, the best code enforcement machine I have witnessed is in the City of Everett. I would refer the Board to Everett Municipal Code Chapter 1.20, Enforcement Procedures, as an excellent model. I will also attach the Everett Code Enforcement Hearing Examiner Rules of Procedure, which I helped to draft, to show the level of detail I feel is appropriate. These rules provide not just Staff but appellants with a road map on how to proceed. I am happy to discuss this further with the Board or the Community Development Department if the County is interested in adopting new procedures.

## **V. In Conclusion**

The opportunity to provide hearing examiner services in the County has been greatly appreciated. The transition from the Joint Agency to the independent Community Development Department was seamless with respect to hearing examiner services. On a personal level, I continue to enjoy excellent working relationships with Department personnel, who impress me regularly with their professionalism and demonstrated respect for the parties and the process.

I invite feedback from the Commissioners and am happy to continue dialogue on any of the enclosed topics in writing.

Best wishes for success in the coming year,

Sharon Rice  
Walla Walla County Hearing Examiner

Attachment:

- A. Everett Code Enforcement Hearing Examiner Rules of Procedure

**RULES OF PROCEDURE  
CODE ENFORCEMENT HEARINGS OF CITY OF EVERETT**

**SECTION 1: PURPOSE**

The purpose of the Rules of Procedure is to provide a procedure to be used for code enforcement hearings that provide parties to a hearing a fair opportunity to participate in the process.

**SECTION 2: INTERPRETATION AND WAIVER OF RULES**

These rules shall be liberally construed to promote justice and facilitate fair hearings in code enforcement matters. The decisions of the Hearing Examiner will not be based on compliance or noncompliance with these rules. The Hearing Examiner may waive or alter the provisions of any of these rules in order to serve the ends of justice. The Hearing Examiner may amend these rules from time to time.

**EXCEPTION:** Notwithstanding the language of the above paragraph, Section 11 of these rules of procedure must be strictly complied with.

**SECTION 3: DEFINITIONS**

“*City*” means the City of Everett, Washington.

“*Clerk of the Hearing Examiner*” means a person designated by the City of Everett Office of the Mayor to assist the Hearing Examiner in his/her duties.

“*Code Enforcement Officer*” means an employee of the City who develops and presents the City’s allegations of code violations by the Respondent.

“*IPMC*” means the International Property Maintenance Code which has been adopted by the City of Everett.

“*EMC*” means Everett Municipal Code.

“*Ex parte communication*” means written or oral communications between the Hearing Examiner and a party about a matter pending before the Hearing Examiner. The prohibited communication is that which is outside of the hearing and involves an issue of the case and all other parties have not been given an opportunity to participate in the communication. Written or oral communication on issue’s relating to procedural are not considered ex parte communication.

*"Hearing Examiner" or "Examiner"* means the Hearing Examiner or the Hearing Examiner Pro Tem of the City of Everett as defined. All jurisdictions, powers and authority for the Hearing Examiner also apply to the Hearing Examiner Pro Tem.

*"Open record hearing"* means an administrative hearing in which an administrative record is developed through written and oral testimony and submission of evidence.

*"Order"* means a written determination of the Hearing Examiner which directs a party of the proceeding to act or to refrain from acting.

*"Party"* means the City of Everett and any and all Respondents identified in a violation citation for the enforcement of a violation of the EMC.

*"Record"* means all oral testimony and written exhibits submitted and admitted at the open record hearing. The audio recording of the proceeding shall be included as part of the record. At the discretion of the Hearing Examiner, the record may be supplemented after the closing of testimony.

*"Respondent"* means a person who has been cited for a violation which the enforcement of is governed by EMC 1.20.020. The Respondent may be any person, partnership, corporation, estate, tenant, landlord, occupant, or any other person who has some interest in the property that is subject of the City regulations.

#### **SECTION 4: JURISDICTION**

The Hearing Examiner has jurisdiction to hear and decide allegations of violations of the provisions of EMC 1.20.020, or the provisions of any City regulation or ordinance that identifies EMC 1.20 as the enforcement procedure for said regulation and ordinance. The duties and powers of the Hearing Examiner are set forth in EMC 1.20.040.

#### **SECTION 5: HEARING EXAMINER**

5.1 All hearings shall be presided over by the Hearing Examiner or the Hearing Examiner Pro Tem. All communication and material required, and allowed to be provided to the Examiner, shall be mailed or delivered to the Clerk of the Hearing Examiner at City of Everett, Code Enforcement, 3002 Wetmore Ave, Everett, Wa 98201. A copy of said communication and material shall be made available to the Respondents. If the Respondent has not provided a functioning address or phone number the communications and material shall be available at the City of Everett Police Department Records counter 24 hours before the hearing is scheduled.

5.2 The Hearing Examiner shall have all of the authority and duties as granted him/her in state statutes, EMC and other City ordinances. Included, without limitation, in the authorities and duties of the Hearing Examiner are the following:

- a. To administer oaths and affirmations;

- b. To at his or her discretion subpoena witnesses subject to the requirements of EMC 1.20.040 F2.
- c. To rule upon offers of proof and receive evidence;
- d. To regulate the course of the hearings and the conduct of the parties and their agents;
- e. To question any person presenting testimony at the hearing;
- f. To hold conferences for settlement or simplification of the issues, or any other proper purpose;
- g. To require briefs on legal issues;
- h. To consider and rule upon all procedural and other motions appropriate to the proceedings; and
- i. To make decisions, issue Orders, and assess monetary penalties.
- j. To allow a party to request a supplemental hearing after the close of the record if conditions set by the Hearing Examiner are met. For example, the Hearing Examiner may allow a respondent to request a fine reduction through a supplemental hearing if a violation is corrected by a certain date. The Hearing Examiner's has discretion over this procedure and any decision must be included in a written Order.

5.3 The Hearing Examiner shall not be subject to the supervision or direction of any elected official, officer, employee or agent of any municipal department.

#### **SECTION 6: EX PARTE COMMUNICATION**

6.1. No person, nor his or her agent, employee or representative, who is interested in a particular matter currently pending before the Hearing Examiner shall communicate ex parte, directly or indirectly, with the Hearing Examiner concerning the merits of that or a factually related matter. This rule shall not prohibit ex parte communications concerning procedural matters. All allowed ex parte procedural communications shall be directed to the Clerk of the Hearing Examiner.

6.2 The Hearing Examiner shall not communicate ex parte directly or indirectly with any interested person, nor his or her agent, employee or representative, with regard to the merits of a matter.

6.3. If a prohibited ex parte communication is made to or by the Hearing Examiner, such communication shall be publicly disclosed, and proper discretion shall be exercised by the Hearing Examiner as to whether to disqualify him or her as Hearing Examiner for that particular hearing.

#### **SECTION 7: NATURE OF PROCEEDINGS**

##### **7.1. Expeditious Proceedings**

It is the policy of the Office of the Hearing Examiner that, to the extent practicable and consistent with requirements of law, hearings shall be conducted expeditiously.

In the conduct of such proceedings the Hearing Examiner, City staff, and all parties, or their agents, shall make every effort at each stage of a proceeding to avoid delay.

## 7.2 Record of Hearing

- a. Decisions of the Hearing Examiner are based on the record of the hearing.
- b. All hearings are electronically recorded in an audio format which is part of the record.
- c. Copies of the record may be obtained by any interested person. Costs of reproduction of the record are the responsibility of the requesting party.

## **SECTION 8: RIGHTS AND RESPONSIBILITIES OF PARTIES**

### 8.1. City of Everett

- a. The City may present evidence and testimony, examine and cross-examine witnesses, make recommendations to the Hearing Examiner, and exercise all other rights essential to a fair hearing. The Hearing Examiner may limit testimony and the admission of exhibits to that relevant to the alleged violations.
- b. The City staff shall:
  - 1) Provide notice of the hearing;
  - 2) Prepare a case file to be presented at the Hearing.
  - 3) Make available to the Hearing Examiner and the Respondent the documentation relevant to the case at least 24 hours prior to the hearing. If the City is unable to locate the Respondent for the purpose of providing said documentation, it shall provide an explanation at the hearing of its efforts. At that time the Hearing Examiner will make a determination to proceed with or continue the hearing to allow City to again attempt service of said documentation.

### 8.2. The following rules apply to the Respondent at the hearing:

- a. The Respondent shall be
  - 1) Given notice of the hearing within a reasonable time as set forth in the EMC. The Respondent may fully participate in the hearing and may present evidence and testimony, examine and cross-examine witnesses, and exercise all other rights essential to a fair hearing.
  - 2) The Respondent may provide the Hearing Examiner with material that supports his/her case. Any submittals may be accepted prior to or at the hearing. If submittals are made prior to the hearing they shall be delivered to the Code Enforcement Officer who is representing the City. The Hearing Examiner may limit testimony and the admission of submitted exhibits based on relevance.

### 8.3 Absent a voluntary agreement of compliance between the City and the Respondent (*see: Section 10.3*), parties who are named in the notice of violation citation must appear at the open record hearing. If adequate notice has been given, and a named party fails to appear at a scheduled hearing, the Hearing Examiner may issue a Default Order that includes directions for the abatement of the violation,

specific conditions for the abatement, and an assessment of a monetary penalty. The Default Order must be in writing and provide details of notice provided to the Respondent.

#### 8.4 Presence of Legal Counsel at Open Record Hearings or Meetings

- a. Although representation by legal counsel is not required at the open record hearings, all parties participating in the hearings may be represented by legal counsel of their choice and at their expense.

### **SECTION 9: CONDUCT OF HEARINGS**

#### 9.1 Notice Requirements of Hearings and Filings

- a. A person to whom a violation citation has been issued shall appear before the Hearing Examiner at a public hearing on the date set in the violation. If proper notice has been given the absence of the Respondent will not prevent the Hearing from being held and a decision being issued.
- b. Affidavit of Notice. The City shall provide an affidavit or testimony attesting to the notice given of a hearing.

#### 9.2 Behavior at Hearing

- a. All parties, witnesses and observers at the hearing must conduct themselves with civility, and show courtesy to all persons involved in the proceedings. There are to be no vocal outbursts at the hearing.
- b. All testimony at the hearing must be given at a designated microphone. When acknowledged by the Hearing Examiner, a party or witness shall state his/her name and provide testimony in a brief and concise manner. The Hearing Examiner may limit testimony based on relevance.

#### 9.3 Oath or Affirmation. All testimony before the Hearing Examiner shall be given under oath or affirmation of truth.

#### 9.4 Content of the Record. The record of the hearing shall include the testimony presented at the hearing and other materials admitted as exhibits at the hearing. The record shall also include the proposed Findings of Fact and any Orders issued by the Hearing Examiner. Proposed Findings of Fact and Order may be submitted as exhibits by the City and the Respondent. Each hearing must have a list of all exhibits submitted as an exhibit.

#### 9.5. Development of Record at the Hearing

- a. City
  - 1) The City has the burden of proof which requires clear and convincing evidence to prove the violation has occurred. The City makes the initial presentation at the hearing.
  - 2) During its presentation at the Hearing the City shall describe the alleged violation. At this point of the hearing the City shall present all witnesses and evidence that it proposes to submit for the record.



- 3) After the City has presented its testimony and evidence it may submit a recommendation of corrective action for the violation.
  - 4) The recommended corrective action may include actions that are necessary to remedy the alleged violation, a time schedule for completion, and Monetary penalties to be impose.
- b. Respondent
- 1) After the City has presented its case, the Respondent may submit testimony, witnesses and evidence.
  - 2) The Respondent's presentation shall consist of relevant information of the alleged violation. The presentation should also address and respond to the City's submitted testimony and evidence. The Respondent shall present all witnesses and evidence that it proposes to submit for the record.
  - 3) The Respondent may submit evidence that describes any corrective action that he or she has taken to alleviate the alleged violation.
  - 4) The Respondent may make his/ her own recommendation to the Examiner. The recommendation may include dismissal of the case, corrective action, a time schedule for completion and a proposal for waiver or reduction of the City's recommended monetary penalty, if any.

#### 9.5 Continuance of Hearing

- a. Hearing Examiner. If, in the discretion of the Hearing Examiner, more information is necessary to make a decision or issue an Order, the hearing may be continued to a date certain with notice to the Respondent and City.
- b. At the request of a party. A Respondent or the City may request continuance of the hearing. The request shall be based on reasonable grounds. The Hearing Examiner shall have discretion to grant or deny the request for continuance.

#### 9.6 Evidence

- a. All submitted evidence shall be relevant to the alleged violations.
- b. Copies. Copies of documents may be submitted in lieu of originals. Copies shall be provided whenever possible. If copies are not provided at the open record hearing, the Respondent may be charged for the cost of copying exhibits that are admitted during the hearing. Any documents submitted at the hearing shall become part of the permanent record and shall not be returned to the party.
- c. Photographs must include a date of the photograph. The Hearing Examiner shall have discretion to question the identity of the photographer.
- d. Only the Hearing Examiner has discretion to require a document be filed after the close of testimony. **Only those documents referred to at the hearing, and documents specifically requested by the Hearing Examiner, may be submitted.**

## **SECTION 10: DECISIONS OF THE HEARING EXAMINER**

### 10.1 Written Decisions

- a. The Hearing Examiner may issue a written Order immediately after the close of the record for the hearing. If issued at that time, the Parties will be given a copy of the Order immediately after the hearing. If a Respondent failed to attend the hearing or leaves the hearing before receiving a copy of the Order will be mailed to the Respondent or posted on the property.
- b. The Hearing Examiner may take a matter under advisement and issue an Order at a later date. A copy of the Order will be mailed to the Respondent and provided to the City.

#### 10.2 Content of Order

- a. Findings of Fact. The Findings shall be based on the evidence and testimony admitted in the record of the hearing and on those matters officially noticed.
- b. Conclusions. The Conclusions shall refer to the ordinances that have been violated. If no ordinances have been violated, it shall be stated in the Conclusions.
- c. Order. If the Hearing Examiner determines that a violation has occurred or is occurring, he/she shall issue an Order to the Respondent(s) responsible for the violation. The Order may be issued to any or all of the identified Respondents. The Order may include, but is not limited to:
  - 1) Findings of Fact and Conclusions;
  - 2) The required corrective action;
  - 3) The date which the correction must be completed;
  - 4) The monetary penalties and costs of enforcement and the date due.
- d. If the Hearing Examiner determines that a violation occurred and was abated prior to the hearing, the Hearing Examiner may issue an Order finding a violation occurred and was proven by the City. Notwithstanding any pre-hearing abatement, the Order may include monetary penalties and costs of enforcement of the violation. The Order will establish at what date the monetary penalty is payable. Violations established by an Order may serve as a first offense for subsequent repeat offenses pursuant to EMC 1.20.020.E.

- 10.3. Stipulated Agreements. The City and the Respondent may enter into a written stipulation for corrections of violations. The signed stipulation between the City and Respondent shall include a proposed Order for review by the Hearing Examiner. If the stipulation is consistent with the law and procedures and is presented at a public hearing, it may be signed by the Hearing Examiner. If signed, the Order has the same legal effect as any other Order issued by the Hearing Examiner.

### **SECTION 11: RECONSIDERATION**

Any party may request that the Hearing Examiner reconsider a decision by filing a Request for Reconsideration with the Examiner no later than 7 calendar days from the date the decision is issued. Such request must identify any findings or conclusions alleged to be erroneous and include a supporting argument, but may not introduce new evidence unless allowed by this Section 11. Requests for Reconsideration shall be

limited to allegations of factual errors or mistakes of law, and limited new evidence. The Request for Reconsideration shall be filed with the Hearings Examiner of the City of Everett. A copy of the request shall be provided to the City of Everett Code Enforcement Officer assigned to the matter to provide a response to the request. A copy of any response provided by the Code Enforcement Officer shall be sent to the Respondent and the Hearings Examiner.

New evidence may only be alleged under extraordinary circumstances and at the sole discretion of the Hearing Examiner, be added to the record upon a showing that the evidence was unavailable at the time of hearing despite reasonable diligence.

### **SECTION 12: APPEALS OF DECISIONS**

A final decision of the Hearing Examiner may be appealed to superior court in accordance with RCW 36.70C.

### **SECTION 13: CLERICAL ERRORS**

Clerical errors in Orders or other parts of the record, and errors arising from oversight or omission, may be corrected by Order at the Hearing Examiner's initiative or in response to a motion of a party.

### **SECTION 14: CONFLICTS**

In the event of a conflict between these rules and a provision of the EMC, the provision of the EMC controls.