



**CITY COUNCIL MEETING AGENDA
TUESDAY, FEBRUARY 21, 2023
HELD REMOTELY & IN PERSON AT CITY HALL
124 S. LEFEVRE ST.**

- Sign up to provide Public Comment at the meeting via calling in
- Submit Written Public Comment Before 4 pm on (February 21, 2023) - *SEE NOTE*
- Join the Zoom Meeting –
<https://us06web.zoom.us/j/84343597026?pwd=RW40cFlySGt5bjFTQWIKQ0FUcTNTQT09>

Meeting ID: 843 4359 7026

Passcode: 167818

One tap mobile

+12532050468,,84343597026#,,,,*167818# US

+12532158782,,84343597026#,,,,*167818# US (Tacoma)

Find your local number: <https://us06web.zoom.us/j/84343597026?pwd=RW40cFlySGt5bjFTQWIKQ0FUcTNTQT09>

WRITTEN PUBLIC COMMENTS

If you wish to provide written public comments for the council meeting, please email your comments to sweathers@medical-lake.org by 4:00 p.m. the day of the council meeting and include all the following information with your comments:

1. The Meeting Date
2. Your First and Last Name
3. If you are a Medical Lake resident
4. The Agenda Item(s) which you are speaking about

*Note – If providing written comments, the comments received will be acknowledged during the public meeting, but not read. All written comments received by 4:00 p.m. will be provided to the mayor and city council members in advance of the meeting.

Questions or Need Assistance? Please contact City Hall at 509-565-5000

REGULAR SESSION – 6:30 PM

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

- A. Absence(s): Don Kennedy. Approved at the January 17, 2023, council meeting.

2. AGENDA APPROVAL

3. INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

4. ANNOUNCEMENTS / PROCLAMATIONS / SPECIAL PRESENTATIONS

5. REPORTS

- a. Committee Reports
 - i. Finance Committee
 - ii. Public Safety Committee
 - iii. General Government Committee
- b. Council Comments
- c. Mayor
- d. City Administrator & City Staff
 - i. Public Safety Update (FD3 and SCSO)

6. WORKSHOP DISCUSSION

- A. Mnati Consulting Retainer Contract
- B. City Council Appointment, Position 2 Candidate Interviews

7. EXECUTIVE SESSION - Scheduled per RCW 42.30.110(h) (City Council candidate(s) qualifications)

8. ACTION ITEMS

- A. Nomination and Selection of City Council Appointment, Position 2
- B. Consent Agenda
 - i. Approve **February 7, 2023**, minutes
 - ii. Approve **February 21, 2023**, Claim Warrants **42167** through **42218** in the amount of **\$135,703.77**, Payroll Claim Warrants **42158** through **42166**, and Payroll Payable Warrants **20186** through **20190** in the amount of **\$139,360.07**.

9. RESOLUTIONS

- A. 23-573 Consortium Agreement with Spokane Testing Solutions
- B. 23-574 EFT Policy
- C. 23-575 Lake Street ADA Upgrades Prospectus and Local Agency Agreement
- D. 23-576 E & H Engineering Consultant Agreement for Lefevre Street Lane Restriping and Sidewalks

10. PUBLIC HEARING – No items listed

11. ORDINANCES

- A. First Read - 1108 Critical Areas Ordinance

12. EMERGENCY ORDINANCES – No items listed

13. UPCOMING AGENDA ITEMS

14. INTERESTED CITIZENS

15. CONCLUSION

CITY OF MEDICAL LAKE
City Council Regular Meeting and Public Hearing

6:30 PM
February 7, 2023

MINUTES

Council Chambers
124 S. Lefevre Street

NOTE: This is not a verbatim transcript. Minutes contain only a summary of the discussion. A recording of the meeting is on file and available from City Hall.

COUNCIL AND ADMINISTRATIVE PERSONNEL PRESENT

Councilmembers

Chad Pritchard
Art Kulibert (via Zoom)
Heather Starr
Tony Harbolt (via Zoom)
Bob Maxwell

Administration/Staff

Terri Cooper, Mayor
Sonny Weathers, City Administrator
Koss Ronholt, Finance Director/City Clerk
Sean King, City Attorney
Scott Duncan, Public Works Director
Elisa Rodriguez, City Planner
Steve Cooper, WWTP Director
Roxanne Wright, Admin. Assistant

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

- A. Mayor Cooper called the meeting to order at 6:30 pm, led the pledge of allegiance, and conducted roll call. Position #2 is vacant, councilmembers Kulibert and Harbolt were present on Zoom, councilmembers Pritchard, Starr, and Maxwell were all present in person.
- B. Absences – Councilmember Kennedy, approved at the January 17, 2023, council meeting.

2. AGENDA APPROVAL

- A. Motion to approve agenda made by councilmember Starr, seconded by councilmember Maxwell, motion carried 5-0.

3. INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- A. Tammy Roberson 424 W Brooks Rd – Shared commentary on CAO and Council Agenda. See attached.
- B. Scott Holbrook 424 W Brooks Rd – Shared commentary on the anatomy of a wetland. See attached.
- C. Diane Nichols 425 Frederick Ave – commented her support for the changes proposed by community member Tammy Roberson. See attached.

4. ANNOUNCEMENTS / PROCLAMATIONS / SPECIAL PRESENTATIONS – No items listed

5. REPORTS

- A. City Council & Council Committee Reports
 - i. Finance Committee – Councilmember Starr reported that they reviewed claims and warrants as usual and Mr. Ronholt will share the budget update.
 - ii. Parks and Recreation Committee – Councilmember Starr provided update on youth basketball. Shared about the return of AARP tax help to City Hall, including the process to help citizens that may not be mobile.
- B. Council Comments
 - i. Councilmember Pritchard – HCDAC will be meeting again tomorrow. There will be another Waterfront Park walk in April, more details to come. STEM career night with Medical Lake School District will be held May 3, 2023, at Medical Lake Middle School.
 - ii. Councilmember Starr – no report
 - iii. Councilmember Maxwell – no report
 - iv. Councilmember Kulibert – no report
 - v. Councilmember Harbolt – no report
- C. Mayor Cooper – no report
- D. City Administrator & City Staff
 - i. 2022 Budget Update – Koss Ronholt, Finance Director
 - 1. Gave presentation on Quarter 4 Final Review. See attached.
 - ii. Sonny Weathers, City Administrator
 - 1. Reminded everyone that the Washington State Legislature is in session and encouraged citizens and council members to reach out to our representatives. Shared that he is working on a one page document to outline the topics of interest and will provide to council for their convenience. The document will also be available on the city’s website for the public.
 - 2. WWTP lab accreditation was renewed on January 20, 2023.
 - 3. Staff Update: Code Enforcement Officer application period is now closed, and interviews are being scheduled. Parks and Recreation Director position is open through February 28, 2023, with three applicants so far.
 - iii. FD3 update – Chief Rohrbach gave update on response times. Proposed a later start for the annual Fisherman’s Breakfast that the Fire Department provides. They would like to start two hours before sunrise rather than midnight as has been the standard. Mayor shared that they are thankful for the service and would like to schedule it however it works best for the volunteers. Council in agreement.

6. WORKSHOP DISCUSSION

- A. No items listed

7. EXECUTIVE SESSION – Scheduled per RCW 42.30.110(h) (City Council candidate(s) qualifications)

- A. Session scheduled for ten minutes to review qualifications of applicants for council seat #2. Session began at 7:06 pm. Due to technical difficulties, an additional ten minutes was needed.
- B. Session ended at 7:28 pm and Mayor Cooper gave an update on session.

- i. Applicants for Council Seat #2 are: Kelli Shaffer, Patrick Flaherty, Theodore Olson, Lance Speirs, and Shirley Maike.
- ii. Councilmember Pritchard motioned to move Lance Speirs to the interview process, seconded by councilmember Maxwell, carried 5-0.
- iii. Councilmember Harbolt motioned to move Ted Olson to the interview process, seconded by councilmember Maxwell, carried 5-0.
- iv. Councilmember Starr motioned to move Kelli Shaffer to the interview process, seconded by councilmember Pritchard, carried 5-0.

8. ACTION ITEMS

A. Consent Agenda

- i. Approve **January 17, 2023**, minutes.
 - 1. Motion to approve made by councilmember Pritchard, seconded by councilmember Maxwell, carried 5-0.
- ii. Approve **February 07, 2023**, Claim Warrants **42113** through **42156** in the amount of **\$66,134.92**, and 13th Month Claim Warrants **42100** through **42112** in the amount of **\$59,676.48**.
 - 1. Finance committee reviewed and recommended approval. Motion to approve made by councilmember Starr, seconded by councilmember Maxwell, carried 5-0.

9. RESOLUTIONS

- A. 23-568 Maintenance Journeyman and Lead Requirements
 - i. Motion to approve made by councilmember Pritchard, seconded by councilmember Starr, carried 5-0.
- B. 23-569 Credit/Fuel Card Policy and Procedure
 - i. Motion to approve made by councilmember Starr, seconded by councilmember Maxwell, carried 5-0.
- C. 23-570 Sole Source Public Works Vehicle Purchase – Vactor
 - i. Motion to approve made by councilmember Pritchard, seconded by councilmember Starr, carried 5-0.
- D. 23-571 Sole Source Public Works Vehicle Purchase – Multi-Hog
 - i. Mayor Cooper shared the need to adjust language to replace the word blower with tractor. Motion to amend made by councilmember Pritchard, seconded by councilmember Starr, carried 5-0.
 - ii. Motion to approve resolution as amended made by councilmember Harbolt, seconded by councilmember Maxwell, carried 5-0.
- E. 23-572 Construction Contract for Reclaimed Water Main Leak
 - i. Motion to approve made by councilmember Starr, seconded by councilmember Pritchard, carried 5-0.

10. PUBLIC HEARING / APPEALS – Critical Areas Ordinance

- A. Mayor Cooper opened the Public Hearing at 7:37 pm.
 - i. City Planner, Elisa Rodriguez, summarized the proposed CAO and the process thus far. Explained that the Planning Commission wanted to have our legal counsel and City Council review Section 17.10.040 A.16. regarding the appeals process.
 - ii. Legal counsel, Sean King, provided council with the options regarding the language in this section. Council could choose to leave the current language as proposed or change it to

make it more “user friendly”. Discussion was held and Mr. King answered questions from council members.

iii. Public comments

1. Tammy Roberson 424 W Brooks Rd. – shared commentary regarding the wetlands and her concerns and suggestions for the current proposed language for the CAO. Gave input regarding the Stanley Apartments. See attached.
2. Judy Wilson 851 S Hallett Street – shared commentary regarding the effects that building projects have had on the wildlife in her area and her personal dwelling.

B. Mayor Cooper closed the Public Hearing at 7:52 pm.

C. Council questions or comments

- i. Councilmember Kulibert asked Mrs. Rodriguez and Mr. King two questions; If the city denies building due to critical areas, is the city then required to purchase the land? Would the ordinance prevent the Medical Lake School District from building, specifically on the High School’s sports fields, since there are wetlands on the property? These questions will be researched and answers provided at the next meeting.
- ii. Mayor Cooper – commented on the appeal process and that she is in favor of the proposed language as it now enables citizens to go directly to a judge for appeals.
- iii. Councilmember Pritchard – discussed his concerns on various sections of the proposed CAO. Mrs. Rodriguez answered questions.
- iv. Discussion of the proposed CAO continued between councilmembers, Mayor Cooper, and Mrs. Rodriguez.

11. ORDINANCES

- A. First Read - 1108 Critical Areas Ordinance
 - i. Motion to continue first read to the next council meeting on February 21, 2023, made by councilmember Starr, seconded by councilmember Maxwell, motion carried 5-0.

12. EMERGENCY ORDINANCES – No items listed

13. UPCOMING AGENDA ITEMS

- A. North Park
- B. Asset Management Policy Workshop
- C. EFT Policy workshop
- D. Council Policy and Procedure Manual update
- E. Community Garden discussion next meeting

14. INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- A. Tammy Roberson 424 W Brooks Rd. – requested ten to fifteen minutes at the next council meeting to give a presentation on wetlands.
- B. Councilmember Maxwell thanked everyone for coming and sharing their thoughts and concerns.

15. CONCLUSION

- A. Motion to conclude the meeting made by councilmember Pritchard, seconded by councilmember Maxwell. Motion carried 5-0 and meeting was concluded at 8:20 p.m.

Terri Cooper, Mayor

Koss Ronholt, Finance Director/City Clerk

DRAFT

Attachments to February 7, 2023, City Council Minutes

- Budget Update Document
- Public Comments



2022 - Quarter 4 Final Review

Revenues

Fund	2022 Budget	Fiscal Activity	Variance	Variance Percentage
General	\$3,127,346	\$3,283,889	\$156,543	5%
Streets	\$515,340	\$542,027	\$26,687	5%
Wtr/Swr	\$1,559,150	\$1,924,777	\$365,627	23%
Garbage	\$601,010	\$661,466	\$60,642	10%

Revenue Notes:

A positive variance indicates that revenues exceed the budget, while a negative variance indicates that revenues are short of the budget.



2022 - Quarter 4 Final Review

Expenditures

Fund	2022 Budget	Fiscal Activity	Remaining	Percent Remaining
General	\$3,089,703	\$2,991,993	\$97,709	3%
Streets	\$515,340	\$508,342	\$6,997	1%
Wtr/Swr	\$1,772,107	\$1,636,217	\$135,889	7%
Garbage	\$709,200	\$705,925	\$3,274	0%

Expenditure Notes:

A positive percent remaining indicates how much budgeted expenditures are available for use, while a negative variance indicates that expenditures exceed budget.

02/07/2023 Public Comment regarding WetLand / Critical Areas Ordinance

To: City Officials and City Council and Planning Members:

Each of you will determine the future and the role of the critical wetlands in our community and ultimately the future of Medical Lake as a whole entity and the future of Medical Lake short term and long after each of us are long gone. I hope that each of you look at the "exceptions" made in the past and act to not to make them the "new normal". This is your opportunity to do what is right for the environment and the future of Medical Lake. Your decisions will be permanent and it will be too late. Allowing minimal or no buffers or eliminating additional buffers to protect these vital resources and disrupting the natural ecosystems will ultimately destroy Medical Lake. It will no longer be a day trip or vacation or stop over destination. The new apartments at "the Park" will challenge "Mother Nature" based on how the humans choose to protect it or not.

Tammy and Trevor Matthews have graciously provided you with expert knowledge, recommendations and steps to preserve these vital assets to our area. It's a lot of information but based on previous and current actions, these vital lands need all the protection they can get. The Attorney's letter was spot on with the best practices for the city to follow to ensure the best protection of these vital lands!

Please do what needs to be done, it's been drafted for you, it gets the job done ... but it needs your support and your blessing and finally your vote.

What happens when the lakes, ponds, and native grounds are polluted by humans and garbage and domestic animal feces and they dry up and there's nothing special about this area, except festivals and celebrations? Where was our local government who holds the future of the city and community in their hands, as well as jeopardize the long term health of our environment. You can not go back, you don't get a do over. We can't even get people to respect our city enough to pick up their trash or dog feces, which ultimately goes into our water sources and ground.

This will literally determine the future of Medical Lake. No one person should be the decision maker. By bending rules, changing rules and ignoring the rules that are to protect these sensitive ecosystems, we as a community have failed. It is going to be challenging enough to keep what's left of the wetlands and ecosystem alive. The City should require it to be resurveyed and refenced and any applicable fines should be sent to the developer. The current fencing is not where it should be or removed, land was bulldozed in the designated wetland, and no one cares. The housing development at the south end of town and the demise of those wetlands set the tone, same developer and same builder.

As far as the public not coming out and screaming about the dangers you are proposing to our current wetlands and the supporting ecosystems and growth, the world has changed and humans are not invested in the community, unless it involves them personally, eg expanding the city limits onto their homes and land. So many residents live here but don't pay taxes, vote or participate in our community, except for what is of current benefit and importance to them at this time. They aren't invested in Medical Lake or the long term effects of actions or loss of protections.

Your job is to ensure the overall health of this community is not diminished by accepting rules that were ignored, changed or jeopardized in the past at the greed of a shady city official and the smooth talking of a developer who has no interest beyond what he/she wants in their pocketbook. There is truly something to living in the community you serve.

We have already seen the rules and regulations bent, ignored, and literally changed before our very eyes. We have individuals who talk support and then vote against the very items they proposed.

The Items that have been proposed based on professional experience and knowledge and the legal counsel summarizing the actions needed are crucial to save our community and the uniqueness and history that this town has to offer.

I urge you to carefully consider and implement the recommendations Tammy Roberson and Steve Matthews have submitted and to amend the CAO Accordingly. I second Diane's Comment, "We need to make sure that one unelected official in city government does not have the power to decide wetland boundaries or waive requirements without

oversight by the Mayor, City Council and Planning Commission. We need to make sure that the Council and the Mayor do not decrease protection of our wetlands.”

The time is now ... Get the CAO right. The future of Medical Lake depends on it!

Thank you for your time and commitment!

Respectfully,

Barb Baumann

1009 N Stanley St, Medical Lake, WA 99022

Comments – February 7, 2023 City Council Meeting (Interested Citizens)
(As Of: 7 Feb 2023)

Good evening, Mayor, City Council members and City Officials.

Please refer to City of Medical Lake, Spokane County, WA Ordinance No. 1108, page 70 in your Agenda packet (paragraphs 2 and 3).

I am somewhat confused on why it states "...it is the City Council expectation that this Ordinance will not be published as required by law until it is approved by the WA State Department of Ecology" and also "...once the Department of Ecology approves the Ordinance, then it may be published as required by law."

According to Dept of Ecology's Wetland Guidance for Critical Areas Ordinance (CAO) Updates (dated Oct 2022) on page 8:

1. Ecology's role in a CAO revision and adoption process is advisory when independent of the SMP.
2. However, the SMP is a joint document of Ecology and the local government that requires Ecology approval.

According to the Dept of Ecology's Wetland Policy Lead (Mr. Rick Mraz): (per email dated 3 Feb 2023)

1. "We do not have approval authority over CAOs when adopted pursuant to the Growth Management Act."
2. "They are local regulations and considered valid upon local adoption."
3. "We do, however, have review authority over critical area regulations in shoreline jurisdiction, i.e., when the SMP regulates them."
4. "When reviewing an SMP, we look at the critical area regulations to ensure they will achieve no net loss of shoreline ecological functions."

Please enlighten me to what these paragraphs in the Ordinance # 1108 are actually stating since I am not understanding them. Maybe these two paragraphs should state "reviewed by" versus "approved by" the Dept of Ecology folks.

I have also noticed there is no mention of SEPA being covered in Ordinance # 1108. Per DOE's current CAO Updates Guidance (page 4), SEPA is the primary mechanism used to regulate the impacts of wetland development related to climate change. Should not SEPA be mentioned somewhere here?

One last question, why is there a 1st read on the very same day (not to mention right afterwards) as the CAO Public Hearing? This would seem to indicate that the City is trying to push the CAO through quickly without having proper time to ponder about the comments received from her residents. In my viewpoint, this is NOT a good strategy.

Please now refer to City of Medical Lake, Spokane County, WA Ordinance No. 1108, page 69 in your Agenda packet (last paragraph).

This para states, "Whereas, the City Council determined that the proposed amendments are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens and property owners of the City; and"

The Comprehensive Plan (2019 Update) states the following:

1. Page 103: Aquifer Recharge Area - “The city’s critical areas ordinance addresses development occurring over the aquifer and within the aquifer recharge area.”
2. Page 105: Geologically Hazardous Areas - “The city has some wind erosion of exposed soils.”
3. Page 101: Natural Resource Lands: Agricultural Lands, Forestlands, and Mineral Resource Lands
 - a) Page 101: “Agricultural activity within Medical Lake is distributed on the state land to the west, north, and south.”
 - b) Page 103: Forest Lands – “The city does not have commercially viable forests lands within or adjacent to its boundaries.” **This is incorrect per email dated 10/10/2022 from the Dept of Natural Resources. The Ring Lake Estates is within the City limits. DNR’s definition of forest land is “as all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.” The City Planner was made aware of this via email dated 11 Oct 2022.**
 - c) Page 103 Mineral Resource Lands - “Mining activities with long-term commercial significance in Medical Lake is limited.”

Based on these statements, I am wondering why it states then that the CAO is in accord with the Comprehensive Plan since there are no sections dealing with Aquifer Recharge Area or Geologically Hazardous Areas or Natural Resource Lands in this CAO? Or maybe the Comprehensive Plan is incorrect (which was recently updated in 2019)? There was no mention of this information in the City Planner’s Staff Report given to City Council members.

BTW – the Comprehensive Plan also states that one of Medical Lake Policies (#4) is to design new development in compliance with the critical areas ordinance (page 21). This particular policy is pretty high up on the priority list... Whereby, policies regarding the natural environment starts at #58 (page 25).

According to the Comprehensive Plan, one of Medical Lake’s community issues is the community’s wetlands, lakes, and shorelines which are vulnerable to encroachment and misuse, requiring dedicated enforcement of conservation policies and regulations.

As always, thank you so much for your time and attention.

Tammy M. Roberson, 424 W Brooks

NOTE: For Feb 7, 2023 city council meeting: My Witness Testimony. Please review my CAO Planning Commission handouts 27 Oct 2022, 17 Nov 2022 and 15 Dec 2022 as well as the UGA note sent to city planner.

Witness Testimony — 7 Feb 2023 - Anatomy of a Wetland or Forested Wetland

1- Why does Mother Nature create wetlands and forestlands?

We can all agree that Mother Nature plays a vital role in the formation of the surface of our planet. All bodies of water to include lakes, streams, wetlands, forested wetlands and just below the surface subsurface pockets of water are there to moderate temperature or balance our surface temperatures. If we did not have these surface and low subsurface waters our planet would be much hotter and much colder depending on the seasons and we would be living in dust bowls and frozen waste lands. So we owe much to Mother Nature and Her quiet wisdom to provide us humans, wildlife, beneficial insects and life at all scales (fauna) with a habitable planet. Why? So you and I can go about our lives in peace and happiness and not worry about the things she takes care of without our intervention. Ask yourself, how does the surface vegetation stay green when no one waters them and there are long spells without rain? Through OUR thoughtful actions we can give back to show gratitude for Her kindness of providing us with a planet that works so well and amazing to sustain life of every kind. **NOTE: See Drawing on reverse side.**

2-What is water body plume? (ground water, water table)

The area around a lake, stream, river, wetland pond, wetland lake etc. is saturated with water from that water body creating a plume or extension of underground water. You can see it on the map of Medical Lake Wetlands created by SCJ Alliance and on Google maps showing the wetlands in and around Medical Lake. A wetland boundary is not the same every year, it fluctuates based on the amount of moisture received every wet season. The boundary of a wetland pond may follow the pencil line of the water line but this alone does not define the wetland. The wetland is also defined by the extended subsurface water and associated wetland soils and vegetation that accompany it. Look at the map and you see a brownish green area defining the actual wetland pond boundary for that particular space in time and also you will see a lighter green surrounding it. This is the plume or ground water from that wetland. Some go out only a few feet and some go out several hundred feet depending on the type of material surrounding that particular wetland pond. I call it a wetland plume others may call it ground water, or water table. The water is the same water that is in the pond and the soils are the same specific wetland soils that are found in wetlands. Those wetland specialists (biologists) who do the wetland reports to determine category 1, 2, 3, or 4 usually draw a line on a map showing where the water boundary is at the time of the making of the map. If you have a low water year the map will show a smaller area and when you have a larger water year the map will show a larger area of the wetland. So a wetland specialist can fudge a wetland boundary by choosing the time of year to do the report. One can usually see if the wetland specialist is pro-saving wetlands or pro giving developers what they want especially if a wetland specialists works for the design teams hired by the developer.

REQUEST: I would like verbiage in the newly revised ordinance to the effect that each survey map accomplished by a neutral third party wetland specialist show BOTH the wetland boundary by a solid line AND the wetland plume extended waters shown with a dashed line. This plume generally can be seen on the map handed out by the city planner or from a Google map or can be located and shown by drilling test core samples. These core samples also show you the amount of moisture in the soils and the specific wetland soils in question. **NOTE: See Drawing on reverse side.**

3-Does the balance of our eco system effect the quality of life on this planet?



The uneducated and unconcerned think and say **NO**. The educated and concerned say **YES**. The wildlife says **YES**, the plants, trees, bushes flowers say **YES**. The honeybees and other pollinators that do so much pollinating of the food we eat say **YES**. Butterflies say **YES**. Fish, water fowl, and birds of all kinds say **YES**. Kids in all levels of school say **YES**.

What happens when this balanced system gets out of balance? According to Dr Dasher at one of the past meetings, she says that world wide we have lost approximately 50% of wetlands. How much of our wetlands have been built on. A quick glance shows it to be near that figure. **NOTE: Wetlands store carbon within their system, when trees are cut down and vegetation bulldozed over or under the carbon as carbon dioxide is released contributing to the issues we currently face. NOTE: Humans and wildlife exhale carbon dioxide and trees and vegetation absorb it (that is what makes them green) and in turn they give off oxygen that we cannot live without. We are symbiotically connected with our planet. We must take care of Mother Nature as She takes care of us. NOTE: See Drawing on reverse side.**

I affirm the information in this witness testimony is true and correct to the best of my knowledge.

Date 7Feb 2023

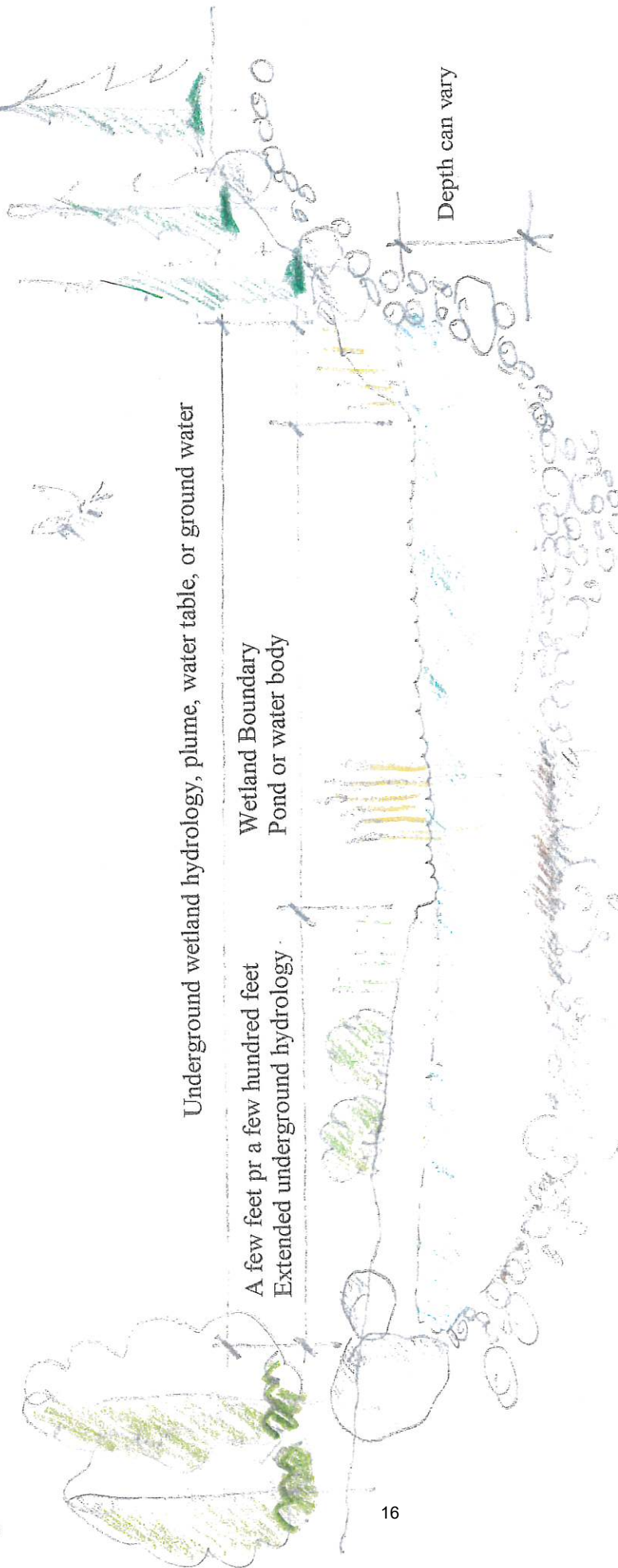
By:

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Anatomy of a Wetland or Forested Wetland

Currently a retired Architect. I also worked approx 16 yrs for the AirForce (both active duty and civilian) in the Plans and Programming department where we handled planning for future projects, project design and production of construction drawings, AICUZ (noise contours) in relation to the runway noise and neighboring communities and Wetlands all across the base (two different bases) and where you could and couldn't build and where you shouldn't build. To me our wetlands, forested wetlands, forestlands, and farmlands are recourses that should not be lost to development.



Hard pan, non-permeable rock, wetland soils, silts, etc that clog up the rocks and prevents percolation of waters back to the aquifer.

Many conifer (Firs, cedars, hemlocks, spruces and some pines, etc) and deciduous trees (aspens, alders, dogwoods, willows, etc), many shrub (spireas, maples, etc) and herbaceous plants (cattails, horsetail, aquatic plants and many grasses) just to name a few.

Within the materials making up a wetland is stored carbon. Humans and wildlife exhale carbon dioxide and trees and vegetation absorb it (that is what makes them green) and in turn they give off oxygen that we cannot live without. When trees are cut down or clearing and grubbing of under brush is bulldozed over, carbon is released and fills our atmosphere which is what some of the worlds issues are currently center stage. We are symbiotically connected with our planet. We must take care of Mother Nature as She takes care of us.

From: Diane Nichols <hsteacher509@gmail.com>

Sent: Thursday, February 2, 2023 7:04 PM

To: Chad Pritchard <cpritchard@medical-lake.org>; Heather Starr <hstarr@medical-lake.org>; Art Kulibert <akulibert@medical-lake.org>; Tony Harbolt <tharbolt@medical-lake.org>; Bob Maxwell <bmaxwell@medical-lake.org>; Don Kennedy <dkennedy@medical-lake.org>

Cc: Mayor Terri Cooper <tcooper@medical-lake.org>; Sonny Weathers <SWeathers@medical-lake.org>; Elisa Rodriguez <ERodriguez@medical-lake.org>

Subject: CAO Council Meeting Agenda

Dear Council Members, Mayor and City Officials,

My name is Diane Nichols. I have lived in Medical Lake for 37 years. I am emailing regarding the upcoming vote on the CAO proposal from the Planning Commission.

As I have stated in my previous email to the Planning Commission, I am for more restrictive ordinances concerning our wetlands. I am in full support of the proposed changes submitted by Tammy Roberson which I understand have been submitted to Council for review, so I will not itemize each one again. I believe her proposals are reasonable and offer a good balanced approach to our wetlands.

I think the Planning Commission erred in removing the additional 15 foot setback to the buffer that had been previous language. I believe the Stanley Wetlands is a prime example of why that is so important. Most of the city has focused on the new apartments and the encroachment on the buffer area. However, previous to that there were townhouses that were built on the eastern edge of the wetland on N Stanley. Those houses have backyards going right up to the edge of the buffer, possibly encroaching into the buffer area since there was no fence or delineation of any kind on that wetland area. The new townhouses do not have fences and as a result dogs, cats and people are roaming in the buffer/wetland area. The area that used to be birthing ground for deer and nesting for birds is now permanently gone. Now the apartments are encroaching on the other side of that same wetland area where pheasants and other birds nest. When the city does not provide sufficient protection for wetlands those precious wetland resources, animals and ultimately the citizens always suffer significant loss.

I was heartened to hear Councilman Pritchard questioning the statement by Ms Rodrigues at the last council meeting regarding the ability of an owner/developer to build on a wetland if the entire area is a designated wetland. While I certainly understand the need to balance the rights of the owner/developer to use the land while protecting the wetland, this city has a history of being lenient with developers. Councilman Pritchard brought up the development by Fairways as an example of allowing building where there are existing water problems. I believe there is ongoing litigation with that area by home owners regarding the lack of appropriate studies, surveys and drainage. I wanted to point out that Medical Lake has had a similar history. I know because I used to live on Pineview Drive, an area of very high water table, lots of ponds, rock and poor drainage.

When we moved to Medical Lake on January 1, 1986 there were only a few homes on Pineview Drive and ours was the last one on the street. Our house sat up high on a rock dome so we never had water issues. However, as approval was given for development, more houses were built right up to the edge of Tule pond and other ponds in the area. Blasting and excavation was used to clear the lots which changed the water flow. As a result, water was constantly flowing or standing in the streets on Pineview, Evergreen, Stanley Dr. People had to install sump pumps and pumped water into the street to

keep their basements or crawl spaces clear. Sometimes in spring runoff we had pack rats swimming down the street from the pond. It was a source of problems for the City of Medical Lake for many, many years which I am sure maintenance supervisors can verify. Eventually the city put in a pump station to deal with the water. The ponds, buffers and change in the structure of the environment were not a consideration when all those additional houses were built. It created problems for the home owners and the city for decades. I had hoped the city had learned something from that experience but sadly the Stanley building projects indicate that there has not been much change, in my opinion.

I urge you to carefully consider the changes that Tammy Roberson has submitted and to amend the CAO accordingly.

We need to make sure that one unelected official in city government does not have the power to decide wetland boundaries or waive requirements without oversight by the Mayor and City Council. We need to make sure that the Council does not decrease protection of our wetlands which I believe the Planning Commission proposal does. Please err on the side of more restrictions not less.

I certainly know from history in Medical Lake that if the proper stipulations are not written into the ordinance they cannot be implemented. Specifics count when it comes to preserving our precious environment. It is worth the time involved to get the CAO right. It is also essential that all information will be public record so citizens can see who made the decision, how and why the decisions were made regarding any future development near wetland areas.

When Mayor Cooper was campaigning door to door this was one issue I asked her about. She assured me that she wanted to preserve our wetlands and the beautiful environment we have in Medical Lake. I hope she stands by her statement. I also hope that council members will decide to preserve what we have left since we have already lost so much to development.

Thank you for your time.

Diane Nichols

Comments – February 7, 2023 City Council Meeting (CAO Public Hearing)
(As Of: 7 Feb 2023)

Again, good evening, Mayor, City Council members and City Officials.

The CAO is Medical Lake's first and most important line of defense against environment degradation in town. From wetlands to the wildlife that inhabit them, one of Medical Lake's most important assets is its critical areas.

As you may be aware, the Park at Medical Lake, a large apartment complex was recently constructed. During construction, I discovered that the City had either excused the developers from, or neglected to enforce, a number of important environmental processes.

1. City failed to require the developers to undergo State Environmental Policy Act (SEPA) process before breaking ground.
2. No public hearing to the Planning Commission was held before the developer broke ground which violates the City's Municipal Code.
3. The developer was allowed to engage in wetland buffer averaging without producing a written record that the criteria for buffer averaging had been met which is in violation of the Code.
4. City granted the developers building permits without enforcing the required 15foot buffer setback as required in the Code.

If one goes and looks at the project, these buildings are way too close to the wetlands. This is a direct result of the problems I just stated.

It is extremely important that any updates to the CAO are written in such a way to ensure the City Officials have limited discretion to excuse developers from compliance and that any decisions which do get made are accompanied by clearly written findings so that citizens can conduct reasonable oversight on permitting decisions.

In light of my experiences over the last couple of years, I would like to propose two simple goals:

1. Ensure the new CAO is at least as protective of the environment as the previous ordinance.
2. Ensure the new CAO clearly requires the City of Medical Lake to leave a thorough, written record of its decision making processes with regard to land development applications.

These two simple goals are expressed in the four amendments which are found in my letter dated 3 Feb 2023.

In conclusion, the City Council needs to ensure that the City leaves behind **written** records of its decision making and they also need to ensure that the new law is **just as protective** of critical areas as the old law. These four amendments accomplish these two simple goals.

I urge the City Council to adopt my amendments and approve the draft CAO thereafter.

As always, thank you so much for your time and attention in this serious issue.

Tammy M. Roberson, 424 W Brooks

P | L | M | S
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STEPHEN R. MATTHEWS
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BENJAMIN D. PHILLABAUM*
WINSTON R. MATTHEWS
DOUGLAS R. DICK*
TREVOR W. MATTHEWS

OF COUNSEL:
SHERYL S. PHILLABAUM
IAN LEDLIN
BRIAN G. HIPPERSON
D. ROGER REED
STEPHEN D. PHILLABAUM (Ret.)

February 3, 2023

*Admitted in Washington and Idaho

www.spokelaw.com

RE: PROPOSED AMENDMENTS TO THE PROPOSED 2023 CRITICAL AREAS
ORDINANCE SUBMITTED BY TAMMY M. ROVERSON

February 2, 2023

Dear Members of the City Council:

My name is Trevor Matthews, and I represent Tammy M. Roberson, a citizen of Medical Lake. I am writing on her behalf about the City's proposal to update the Medical Lake Critical Areas Ordinance ("CAO"). Ms. Roberson has been watching the process with great interest. The CAO is Medical Lake's first and most important line of defense against environmental degradation in town. Natural resources abound in Medical Lake. From wetlands to the wildlife that inhabit them, one of Medical Lake's most important assets is its critical areas.

Ms. Roberson became interested in the text of the CAO as result of events in town during the last few years. As you may be aware, the Park at Medical Lake, a large apartment complex was recently constructed. During construction, Ms. Roberson discovered that the City had either excused the developers from, or neglected to enforce, a number of important environmental processes:

- Medical Lake failed to require the developers to undergo State Environmental Policy Act process (SEPA) before breaking ground. After citizens complained, the City finally stopped work and required the developers to undergo SEPA. Unfortunately, ground had already been broken and much of the damage was done. It is much harder to change or oppose a partially completed project than to improve plans that can still be altered.
- In violation of MLMC 17.10.060(H), no public hearing to the Planning Commission was held before the developer broke ground.

- In violation of MLMC 17.10.060(D)(3), the developer was allowed to engage in wetland buffer averaging without producing a written record that the criteria for buffer averaging had been met.
- The City granted the developers building permits without enforcing the required 15-foot buffer setback imposed by MLMC 17.10.060(E).

These failures were disappointing, but what made them even more frustrating was the fact that the City left behind very few written records of its decision making, which made opposing—or even understanding—its actions difficult. If you go and look at the project, the buildings are too close to the wetlands. This is a direct result of the problems described above.

Thus, it is extremely important that any updates to the CAO are written in such a way to ensure the City Officials have limited discretion to excuse developers from compliance and that any decisions which do get made are accompanied by clearly written findings so that citizens can conduct reasonable oversight on permitting decisions.

In light of Ms. Roberson’s experiences over the last couple years, She would like to propose a few minor improvements to the new version of the Critical Areas Ordinance. These proposals boil down to two simple goals.

1. Ensure the new CAO is at least as protective of the environment as the previous ordinance.
2. Ensure the new CAO clearly requires the City of Medical Lake to leave a thorough, written record of its decision making processes with regard to land development applications.

With all these things said, Ms. Roberson’s proposed amendments to the law’s text follow:

Amendment # 1: Reintroduce Building Setback Requirement Contained in Current CAO.

Insert section 17.10.090(F)(2)(j) with the following text:

“j. Building Setback. A minimum building setback of fifteen feet is required from the edge of a wetland buffer. This building setback from the buffer shall be identified on the site plan.”

Comment:

The presently effective version of the City Code, MLMC 17.10.140(E), contains this same requirement: “Building Setback. A minimum building setback of fifteen feet is required from the edge of a wetland buffer.”

The current draft of the updated law does not contain this provision. If the Code is approved as is, The new CAO will be *less protective of the environment than the previous version*. This is totally unacceptable. The new law should be equally protective, if not more protective, of our

environmental resources. Therefore, Ms. Roberson proposes to preserve the buffer setback requirements in the new ordinance.

Amendment # 2: Ensure a Complete Record of Decision making.

Amend 17.10.040(A)(12) to read:

“12. Review. The planning official must provide a single written report stating the approval criteria for the permitting decisions, information considered, issues to be decided, findings, and a recommendation to the Planning Commission prior to the hearing. The report shall be a public record of the City of Medical Lake.”

Comment:

One of the problems revealed by the Park at Medical Lake is the danger of silent discretion. When a City Official can decide things without leaving a record behind, that can hamper, or even eliminate public oversight. The goal of this comment is to make it clear that City Officials have a duty to leave a written record of the information they receive and what choices they make about the application. These small changes ensure that the public can see inside the process and participate in oversight.

Amendment # 3: Leave a Record of Any Decision to Accept “Less Information.”

Amend 17.10.050(E) to read:

“E. *Critical Areas Report – Modifications to Requirements.* Modifications to Required Contents. The applicant may consult with the planning official prior to or during preparation of the Critical Areas Report to obtain City approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential impacts to any critical areas or buffers and the required mitigation. The planning official may also initiate a modification to the required report contents by requiring either additional or less information, when determined to be necessary to the review of the proposed activity in accordance with this Chapter. Any time a planning official permits an applicant to submit less information in a critical areas report, the City official must clearly indicate that fact in his or her report to the Planning Commission or City Council. The notation must be written and indicate:

1. What information was eliminated from the report;

2. Why the applicant was excused from providing the information; and,
3. A record of the information supplied by the applicant to justify the request to submit less information.”

Comment:

As described in the previous comments, silent discretion is dangerous and the law should be skeptical of it. This provision allows applicants to be excused from providing information that this Code otherwise requires them to provide. If such an exception is granted, the City must be required to clearly and openly state that fact and justify the decision. As written, the law allows a City Official to excuse an applicant from informational requirements and conceal that decision from the reviewing body. The public deserves to be sure it will know when this power is exercised.

Amendment # 4: Leave a Written Record of Delineation Decisions.

Alter 17.10.090(C) to Read:

“c. Delineation. Wetland delineations are valid for five years; after such date a qualified professional must determine and inform the City on the applicant’s behalf, in writing, whether a revision or additional assessment is necessary. Thereafter, the planning official may elect to require a new delineation, an update to the report, or accept the existing report. The report described in 17.10.040(A)(12) must state the planning official’s decision on this issue and the reasons therefor. “

Comment:

As with the previous amendments, this change is focused on leaving a record of decision behind so that citizens can have oversight of the full process.

CONCLUSION

Ms. Roberson believes that the proposed CAO is largely acceptable and reasonable, even if it is not her ideal law. She is not trying to torpedo this process but she does want to make improvements to the law. The City Council needs to ensure that Medical Lake leaves behind *written records* of its decision making. The City Council needs to ensure that the new law is *just as protective* of critical areas as the old law. Ms. Roberson’s amendments accomplish these goals. Therefore, we urge the City Council to adopt Ms. Roberson’s amendments and approve the draft CAO thereafter.

Sincerely,



Trevor Matthews
Phillabaum, Ledlin, Matthews & Sheldon, PLLC
Attorneys for Tammy M. Roberson

Subject: Re[10]: Reply about Wetlands Update
From: "Tammy Roberson" <tmroberson61@gmail.com>
Sent: 10/11/2022 14:38:42
To: "PAINOVICH, ANNETTE (DNR)" <ANNETTE.PAINOVICH@dnr.wa.gov>; "GREENE, D J (DNR)" <DJ.GREENE@dnr.wa.gov>;
CC: "Graham, Jason (ECY)" <JASG461@ecy.wa.gov>; "Elisa Rodriguez" <ERodriguez@medical-lake.org>;

Good afternoon Ms. Annette,

Thank you for this explanation. Have info'd our City Planner.

Take care and God bless.

Tammy

----- Original Message -----

From "PAINOVICH, ANNETTE (DNR)" <ANNETTE.PAINOVICH@dnr.wa.gov>
To "Tammy Roberson" <tmroberson61@gmail.com>; "GREENE, D J (DNR)" <DJ.GREENE@dnr.wa.gov>
Cc "Graham, Jason (ECY)" <JASG461@ecy.wa.gov>
Date 10/11/2022 09:04:50
Subject RE: Re[8]: Reply about Wetlands Update

Thank you DJ,

I appreciate you going out to determine whether this parcel is still considered forestland, and with the parcel being in the city limits, a Class IV-G FPA is needed. That also means a SEPA Checklist needs to be submitted by the landowner too. The City of Medical Lake may want to be the lead on the SEPA process. That would be the City Planner's call.

Tammy,

The Forest Practices Application that the landowner would have to submit would be a Class IV General application for conversion of forestland to a non-forestry use. This process also requires a SEPA review, which allows public comment on the project. The FPA and the SEPA review periods can run concurrently, but the FPA cannot be approved until a Notice of Final Determination has been issued by the SEPA Responsible Official, (whether that is City of Medical Lake or DNR needs to be decided).

If you need anything else, please reach out.

Take care,

Annette Painovich

Forest Practices Coordinator
Northeast Region
Desk: 509-685-2796
Cell: 509-680-3584
annette.painovich@dnr.wa.gov

From: GREENE, D J (DNR) <DJ.GREENE@dnr.wa.gov>
Sent: Monday, October 10, 2022 3:52 PM
To: Tammy Roberson <tmroberson61@gmail.com>
Cc: KELLER, ERIC (DNR) <Eric.Keller@dnr.wa.gov>; Graham, Jason (ECY) <JASG461@ECY.WA.GOV>; PAINOVICH, ANNETTE (DNR) <ANNETTE.PAINOVICH@dnr.wa.gov>
Subject: RE: Re[8]: Reply about Wetlands Update

Tammy

This would mean that the proponent would need to apply for a Forest Practice Application. Before work begins on a Forested parcel that application would need to be approved. Prior to approving a Forest Practice Application other regulatory agencies, including DOE, would get a chance to provide comments to the proponents plan.

Forest Practices falls under the, Forest Practice Act RCW 76.09, Forest Practice rules WAC 222, and the Forest Practice Board Manual.

Hopefully I was able to answer your questions. If not please do not hesitate to call me.

Thanks

DJ Greene
Forest Practices-Spokane/Lincoln
Northeast Region
Washington State Department of Natural Resources
(509)262-8547
DJ.Greene@dnr.wa.gov

From: Tammy Roberson <tmroberson61@gmail.com>
Sent: Monday, October 10, 2022 1:06 PM
To: GREENE, D J (DNR) <DJ.GREENE@dnr.wa.gov>
Cc: KELLER, ERIC (DNR) <Eric.Keller@dnr.wa.gov>; Graham, Jason (ECY) <JASG461@ECY.WA.GOV>; PAINOVICH, ANNETTE (DNR) <ANNETTE.PAINOVICH@dnr.wa.gov>
Subject: Re[8]: Reply about Wetlands Update

External Email

Good afternoon!

Thank you so very much for this update! I will pass this on to our City Planner to let her know that the proposed Ring Lake Estates is considered forested land if she was not aware of this before...

So, if a developer wants to come in and build a subdivision within this parcel - what does this actually mean then? Which regulations do you use regarding a situation like this? Sorry, I am new to how DNR fits into the picture. I am more familiar with DOE's role regarding wetlands than the DNR's role...

Thank you again for looking into this for me.

God bless and take care,
Tammy

----- Original Message -----

From "GREENE, D J (DNR)" <DJ.GREENE@dnr.wa.gov>
To "Tammy Roberson" <tmroberson61@gmail.com>
Cc "KELLER, ERIC (DNR)" <Eric.Keller@dnr.wa.gov>; "Graham, Jason (ECY)" <JASG461@ecy.wa.gov>; "PAINOVICH, ANNETTE (DNR)" <ANNETTE.PAINOVICH@dnr.wa.gov>
Date 10/10/2022 12:48:29
Subject RE: Re[6]: Reply about Wetlands Update

Tammy

I wanted to let you know that I was able to get out there to the parcel today and do believe that this parcel would be considered forested land. Please feel free to contact me if there are any questions.

Thanks

DJ Greene

Forest Practices-Spokane/Lincoln
Northeast Region
Washington State Department of Natural Resources
(509)262-8547
DJ.Greene@dnr.wa.gov

From: Tammy Roberson <tmroberson61@gmail.com>
Sent: Wednesday, October 5, 2022 7:19 AM
To: GREENE, D J (DNR) <DJ.GREENE@dnr.wa.gov>
Cc: KELLER, ERIC (DNR) <Eric.Keller@dnr.wa.gov>; Graham, Jason (ECY) <JASG461@ECY.WA.GOV>; PAINOVICH, ANNETTE (DNR) <ANNETTE.PAINOVICH@dnr.wa.gov>
Subject: Re[6]: Reply about Wetlands Update

External Email

Good morning!

Thank you for your update!

Have a great week.

Take care and God bless,
Tammy

----- Original Message -----

From "GREENE, D J (DNR)" <DJ.GREENE@dnr.wa.gov>
To "Tammy Roberson" <tmroberson61@gmail.com>
Cc "KELLER, ERIC (DNR)" <Eric.Keller@dnr.wa.gov>; "Graham, Jason (ECY)" <JASG461@ecy.wa.gov>; "PAINOVICH, ANNETTE (DNR)" <ANNETTE.PAINOVICH@dnr.wa.gov>
Date 10/04/2022 16:26:08
Subject RE: Re[4]: Reply about Wetlands Update

Tammy

Good afternoon. My plan will be to try and get out there this week or early next week to take a look at this. I will let you know what I find once I have visited the site. Please feel free to contact me if there are any questions.

Thanks

DJ Greene

Forest Practices-Spokane/Lincoln
Northeast Region
Washington State Department of Natural Resources
(509)262-8547
DJ.Greene@dnr.wa.gov

From: Tammy Roberson <tmroberson61@gmail.com>
Sent: Tuesday, October 4, 2022 12:11 PM
To: PAINOVICH, ANNETTE (DNR) <ANNETTE.PAINOVICH@dnr.wa.gov>
Cc: KELLER, ERIC (DNR) <Eric.Keller@dnr.wa.gov>; GREENE, D J (DNR) <DJ.GREENE@dnr.wa.gov>; Graham, Jason (ECY) <JASG461@ECY.WA.GOV>
Subject: Re[4]: Reply about Wetlands Update



Hi Annette,

Thank you so very much for keeping me posted on this.

Just curious on when you think Mr. Greene will be doing a site visit to confirm if its a forest land or not? Also, based on your comments below, then this parcel is currently considered "forest land" since it was never converted to non-forestland - correct?

Warmest Regards,
Tammy

----- Original Message -----

From "PAINOVICH, ANNETTE (DNR)" <ANNETTE.PAINOVICH@dnr.wa.gov>
To "Tammy Roberson" <tmroberson61@gmail.com>
Cc "KELLER, ERIC (DNR)" <Eric.Keller@dnr.wa.gov>; "GREENE, D J (DNR)" <DJ.GREENE@dnr.wa.gov>; "Graham, Jason (ECY)" <JASG461@ecy.wa.gov>
Date 10/04/2022 11:13:21
Subject RE: Re[2]: Reply about Wetlands Update

Hi Tammy,

Very interesting parcel. It is within the city limits of Medical Lake. **Owner Name:** CHENEY PROPERTIES LLC **Address:** PO BOX 620, Cheney, WA, 99004

The big question is whether it's considered forest land by Forest Practices definition. **WAC 222-16-010** of the Forest Practices Rules defines "**Forest land**" as all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. I'm familiar with the specific area in that I have only seen recreational use of this parcel over the years, but I don't recall there being a merchantable stand of timber being allowed to grow on the parcel.

The aerial photo shows sparse tree growth except around the wetlands, and though it's never been officially converted to non-forestland, I'm not sure that it would really meet our definition. We need to have our field forester, DJ Greene, do a site visit and verify the status of the parcel and this will determine whether we have jurisdiction or not.

I also cc'd the field person from Dept of Ecology on this, so he can get eyes on this parcel too.



We will keep in touch on this issue.

Take care,

Annette Painovich

Forest Practices Coordinator

Northeast Region

Desk: 509-685-2796

Cell: 509-680-3584

annette.painovich@dnr.wa.gov

From: Tammy Roberson <tmroberson61@gmail.com>

Sent: Monday, October 3, 2022 6:57 PM

To: KELLER, ERIC (DNR) <Eric.Keller@dnr.wa.gov>

Cc: Fandrey, Nichole (DNR) <Nichole.Fandrey@dnr.wa.gov>; PAINOVICH, ANNETTE (DNR) <ANNETTE.PAINOVICH@dnr.wa.gov>

Subject: Re[2]: Reply about Wetlands Update

External Email

Oops, had forgotten to include Ms Painovich as an addressee - sorry.

Thank you and take care,
Tammy

----- Original Message -----

From "Tammy Roberson" <tmroberson61@gmail.com>

To "KELLER, ERIC (DNR)" <Eric.Keller@dnr.wa.gov>

Cc "Fandrey, Nichole (DNR)" <Nichole.Fandrey@dnr.wa.gov>

Date 10/03/2022 18:53:52

Subject Re: Reply about Wetlands

Hi and good morning!

Thank you so much for replying back. Is the location listed below considered on forest lands? if so, do you have (co-)regulatory power along with DOE (wetlands) regarding this land? I can provide more information if needed.

Parcel # 14192.0002

Section/Township/Range: T24N, R41E, S19NW Other identifying information: The proposed project site lies in the southwest portion of the City of Medical Lake in the NW¼ of Section 19, Township 24 N., Range 41 E.W.M. Lefevre Street defines the north and west side of the site and Green Gate Lane forms the north and east sides of the triangular shaped parcel. The proposed development will be known as "Ring Lakes Estates".

Since I am not very knowledgeable in this subject, I looked up the definition of "forest lands" - Forest land is defined as land that is 10% forested by trees of any size. I would say this location is approximately 30-40% forest land...

Please advise.

Thank you and take care,
Tammy

----- Original Message -----

From "KELLER, ERIC (DNR)" <Eric.Keller@dnr.wa.gov>

To "tmroberson61@gmail.com" <tmroberson61@gmail.com>

Cc "Fandrey, Nichole (DNR)" <Nichole.Fandrey@dnr.wa.gov>

Date 10/03/2022 16:25:47

Subject Reply about Wetlands

Tammy: First I want to apologize for not getting back to you in a shorter time. We strive to get back to folks in a timely manner and we missed the mark. If after reading my reply you still have questions, please give me a call to discuss further.

To answer your question about wetlands, yes the DNR has regulatory authority in conjunction with Dept. of Ecology over wetlands but only on Forest Land. The Department of Ecology does not fall under the DNR for regulatory authority when it comes to wetlands but the rules are co-promulgated so that the DNR does take the lead on regulations for wetlands for Forest Practices on Forest land.

Again, I apologize and if you still have any questions, please give me a call.

Eric

Eric Keller
Forest Practices District Manager
Northeast Region
Wasington St. Department of Natural Resources
509-481-7064

**A team is not a group of people who work together.
A team is a group of people who trust each other.**

----- Forwarded Message -----

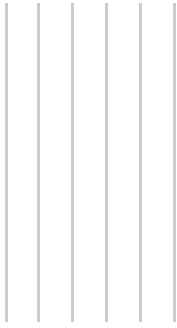
From "Tammy Roberson" <tmroberson61@gmail.com>
To northeast.region@dnr.wa.gov
Date 9/10/2022 5:26:11 PM
Subject Wetlands

Hi!

Besides the Dept of Ecology, does the DNR in WA also have any regulatory power when it comes to wetlands (i.e., unauthorized activities in wetlands for example building a road, railroad, trail, water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facility that cannot feasibly be located outside of the wetland)?

If DNR does have regulatory power on wetlands, does the Dept of Ecology fall under DNR or are they their own entity?

Thank you for your assistance and time.



Warmest Regards,

Tammy Roberson
SMSgt USAF Retired/Disabled Veteran

Final Comments – February 7, 2023 City Council Meeting (Interested Citizens)
(As Of: 7 Feb 2023)

I am requesting please to be placed on the City Council's agenda as soon as possible (hopefully on 21 Feb) in order to give the World Wetlands Day Presentation which will keep the Council Members informed (continuing education) about wetlands.

I should only need 10-15 minutes.

We are a City of Wetlands.

Tammy M. Roberson
424 W Brooks

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT (the "**Agreement**") is made by and between the City of Medical Lake, a code City of the State of Washington (the "**City**") and Mnati Consulting, LLC (the "**Consultant**"), jointly referred to as the "**Parties**" and individually, each as a "**Party**".

WHEREAS, the Consultant has the skill, knowledge and resources to provide the services set forth on the attached Exhibit A (the "**Scope of Work**"), incorporated by reference herein; and

WHEREAS, the City desires to engage the Consultant to perform the Scope of Work.

IN CONSIDERATION of the terms and conditions contained herein the parties covenant and agree as follows:

- 1) Work to Be Performed. The Consultant will furnish all personnel, equipment, supplies, material and labor to provide the Scope of Work. Consultant shall perform all services in compliance with current professional standards.

The City Mayor (which term includes designee) shall administer and be the primary contact for the Consultant. Prior to commencement of services, the Consultant shall contact the City Mayor to review the Scope of Work. Upon notice from the City Mayor or designee, the Contractor shall promptly commence or terminate the Scope of Work.

- 2) Term of Agreement. The Consultant shall commence the Scope of Work upon notice from the City Mayor and shall complete the same in accordance with an agreed schedule.
- 3) Compensation and Payment. The City agrees to pay the Consultant an amount not to exceed **\$XXXX**. The Consultant shall submit invoices for payment based upon the rate of \$60.00 per hour to the City at the below stated address.

The City reserves the right to withhold payment under this Agreement which is determined in the reasonable judgment of the City Mayor or designee to be either unsatisfactory or noncompliant with the Scope of Work.

- 4) Notice. Notice shall be given in writing as follows:

TO THE CITY:
Name: City of Medical Lake
Attn: Terri Cooper
Address: P.O. Box 369
Medical Lake, WA 99022

TO THE CONSULTANT:
Name: Mnati Consulting, LLC
Attn: Alise Mnati
Address: 18362 W. North Ln
Waddell, AZ 85355

- 5) State and Federal Taxes. The City will not:
 - (a) withhold FICA (Social Security and Medicare taxes) from the Consultant's payments or make FICA payments on the Consultant's behalf;

(b) make state or federal unemployment compensation contributions on the Consultant's behalf; or

(c) withhold state or federal income tax from the Consultant's payments.

The Consultant shall pay all taxes incurred while performing services under this Agreement, including all applicable income taxes and self-employment (Social Security) taxes. Upon demand, the Consultant shall provide proof that such payments have been made.

6. Applicable Laws and Standards. The Parties, in the performance of this agreement, agree to comply with all applicable Federal, State, Local laws, and regulations.
7. Relationship of the Parties. It is agreed that the Consultant shall be an independent contractor and not the agent or employee of the City. The City is interested in performance of the Scope of Work with the right to control the manner, method and means of delivering the services solely within the discretion of the Consultant. Any and all employees who provide services under this agreement shall be deemed employees of the Consultant. The Consultant shall be solely responsible for its actions and those of its employees assuming all liability that may attach thereto.
8. Insurance Requirements. Unless agreed otherwise by the City, the Consultant shall purchase and maintain, during the term of this Agreement, a comprehensive general liability policy in the amount of \$2,000,000.00 per occurrence, with the City as an additional named insured.
9. Indemnification and Hold Harmless. Each party shall indemnify and hold the other, its officers, employees, agents, and volunteers harmless from and against any and all claims, demands, orders, decrees or judgments for injuries, death or damage to any person or property arising or resulting from any act or omission on the part of said party or its agents, employees or volunteers in the performance of this agreement.
10. Assignment and Delegation. Neither Party shall assign any or all of the duties and responsibilities of this agreement without the written consent of the other Party.
11. Jurisdiction and Venue. This Agreement is entered into in Maricopa County, Arizona. Venue for any disputes arising as a result of this Agreement shall be in Maricopa County, State of Arizona.
12. Cost and Attorney's Fees. In the event a lawsuit is brought with respect to this Agreement, the prevailing party shall be awarded its costs and attorney's fees in the amount to be determined by the court as reasonable.
13. Entire Agreement. This written Agreement and the Scope of Work constitutes the entire and complete agreement between the Parties and supersedes any prior oral or written agreements. This Agreement may not be changed, modified, or altered except in writing signed by the Parties hereto.

14. Attachments. Exhibit A – The Consultant's Scope of Work.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____, 2023.

CITY OF MEDICAL LAKE:

MNATI CONSULTING, LLC:

By: Terri Cooper, City Mayor

By: Alise Mnati, Chief Executive Officer

Exhibit "A"
Scope of Work

I. Scope of Work: Consultant agrees to provide the following services for the City of Medical Lake.

85% of work will include grant writing:

1. Write and edit proposal to prospective grant funder, including but not limited to:
 - a. project narrative,
 - b. abstract,
 - c. project timeline,
 - d. budget and budget narrative,
 - e. action plan or logic model if needed
 - f. new job descriptions if needed
 - g. organizational chart and project team structure
 - h. submit final copy to the mayor for final approval before submission.

10% of the work will include grant research/preparation to apply:

1. Develop grant writing plan to include needed data, financial information, letters of support, and/or MOUs that will be submitted to the mayor for approval.
2. City must assign agency representative to assist Consultant in gathering needed supporting documents.
3. City must assign department director/lead to collaborate with the Consultant in creating grant goals, budget, and outcome measurements specific to each department applying for a grant.
4. Review organization materials and research/review other background information as necessary to create grant proposal.
5. Research and obtain needed data from City for proposal.

5% of the work will include project development:

1. Attend required grant meetings virtually and/or by telephone.
2. Assist City with developing project evaluation methods, including but not limited to:
 - a. communicate with company departments and partner applicants on proposed data collection.
 - b. develop grant deliverables, outputs, and outcomes
3. Maintain communication and grant updates with the City and partner applicants. This could include attending City Council meetings and providing any needed visual presentations.
4. Explore and elicit potential community partners needed for grant proposal.

II. Compensation: The City agrees to compensate the Consultant at the rate of \$60.00 per hour. Consultant will keep careful track of hours spent on City business and submit an itemized invoice monthly. Billable hours will include all activities mentioned in Section I. Time will be rounded to the nearest quarter hour. The Consultant will invoice the City monthly. Invoices will be submitted via email to Terri Cooper at tcooper@medical-lake.org by the 5th of each month.

III. Independent Contractor: Consultant acknowledges that the services rendered under this Agreement shall be solely as an independent contractor. It is expressly understood that this undertaking is not a joint venture. Consultant is responsible for the payment of all federal, state, and local income taxes.

IV. Confidentiality: Both parties agree to adhere to strict confidentiality practices and to provide each other with their best efforts in the fulfillment of this contract. Consultant agrees not to disclose private information about the Company or its donors. "Private information" does not include information available in the public domain

V. Guarantees: Consultant shall use all resources at Consultant's disposal to perform duties as assigned and agreed to by both parties and shall submit same in good faith. However, no guarantee of receipt of funding by the City is implied or promised by Consultant. Payment is due even if the City does not submit proposal or receive a grant. In addition, Consultant and City recognize that performance of tasks in Section II necessitates communication and information exchange between the parties and with funders, and that delay in completing the tasks may occur if there are delays with information exchange. City also recognizes that if grants are received, the City is responsible for any acknowledgments and reports to funders.

This agreement shall constitute the entire agreement between the parties and shall **remain in effect until the work under this agreement is completed, or this agreement is terminated.** This agreement may be terminated or renegotiated by either party with 14 (fourteen) days' written notice (by email or postal mail) to the other party.

City of Medical Lake:

Mnati Consulting, LLC:

By: Terri Cooper, City Mayor

By: Alise Mnati, Chief Executive Director

Date: _____

Date: _____

**CITY OF MEDICAL LAKE
SPOKANE COUNTY, WASHINGTON
RESOLUTION NO. 23-573**

**A RESOLUTION OF THE CITY OF MEDICAL LAKE APPROVING A
CONSORTIUM AGREEMENT WITH SPOKANE TESTING SOLUTIONS**

WHEREAS, Spokane Testing Solutions (“STS”) is a third-party administrator that provides anti-drug and alcohol misuse testing program services (“Services”); and

WHEREAS, the City of Medical Lake (“City”) seeks to retain STS to provide the Services, pursuant to a Consortium Agreement (“Agreement”), as the City does not have the facilities or operations for such Services; and

WHEREAS, STS requires the City to enter into the Agreement to provide the Services; and

WHEREAS, City Staff recommends the City Council approve the Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDICAL LAKE, WASHINGTON as follows:

Section 1. Approval of Agreement. The Council hereby approves the Agreement in the form attached to this Resolution as Exhibit “A” and by reference is incorporated herein.

Section 2. Authorization. The Mayor is authorized and directed to execute the Agreement on behalf of the City. The Mayor and City Administrator are each hereby authorized and directed to take such further action as may be appropriate in order to affect the purpose of this Resolution and the Agreement authorized hereby.

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

Section 4. Effective Date. This Resolution shall become effective immediately upon its adoption.

ADOPTED this 21st day of February, 2023.

Mayor, Terri Cooper

Attest:

Approved as to Form:

Koss Ronholt, City Clerk

City Attorney, Sean P. Boutz



Consortium Agreement

Date: _____

Dear Valued Client,

This letter will serve as our Letter of Agreement between The City of Medical Lake and Spokane Testing Solutions, third party administrator for anti-drug and alcohol misuse testing consortium program services. This letter will be final once all fees for consortium services are paid in full.

Terms of Agreement

This agreement will become effective on the date signed and shall be valid through December 31, 2023 and will automatically renew for subsequent years unless one party notifies the other that they wish to terminate the services. Spokane Testing Solutions will remove your company from the consortium for the following reasons:

- a. Non-payment of annual enrollment fees
- b. Non-payment of drug/alcohol testing fees
- c. Lack of compliance with regulations or testing selections

Services Provided

The consortium services provided by Spokane Testing Solutions are in accordance with the regulations and stipulations found in 49 CFR Parts 40 and 382 and will include:

Random database management, random selection program, testing arrangements at collection sites, laboratory testing at a DHHS-certified laboratory, MRO verification of test results by a certified MRO, statistical reporting, and technical assistance during state or federal audit.

Motor Carrier Responsibilities

The City of Medical Lake agrees to provide the following:

- a. Prompt response to all requests for roster updates
- b. Immediate testing for all drivers selected for the drug/alcohol testing
- c. Prompt payment of all invoices for annual fees and testing services.
- d. Retention of all consortium documents for audit purposes.

Each driver who is enrolled into the consortium shall have a negative pre-employment drug test on file.

If a negative pre-employment drug test is not on file, one must be conducted prior to the drivers inclusion in the consortium.

Other services that can be provided by Spokane Testing Solutions but are not a part of this agreement include:

- a. FMCSA drug and alcohol Clearinghouse compliance program
- b. Policy development
- c. Supervisor and Employee Training
- d. DOT audit preparation
- e. Background screens

Consortium Process

Each quarter you will receive a request for an updated roster. Please provide the updates and immediately return to Spokane Testing Solutions. You will be notified when quarterly selection are made and, if your company has a driver(s) chosen for testing, those tests must be completed as soon as possible at a collection site designated by Spokane Testing Solutions.

If the selected driver cannot be tested, you must immediately contact Spokane Testing Solutions. Please keep in mind that all testing must be completed even if it must be done in a subsequent quarter or testing period.

Company Name: _____

Spokane Testing Solutions

Company Representative Signature

Title

Title

Date

Date



Client Set-Up Form

Primary Company Contact	
Company Name:	Phone:
Company Contact:	Fax:
Street Address:	Email:
	Web Address:

Billing Contact Complete only if different than Primary Contact	
Contact Name:	Phone:
Street Address:	Fax:
	Email:

Results Contact, Complete only if different than Primary Contact	
Contact Name	Phone:
Street Address:	Fax:
	Email.com
Preferred Method Contact: <input type="checkbox"/> Phone <input type="checkbox"/> Fax <input type="checkbox"/> Email	
Have you registered with the FMCSA Clearinghouse? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> I do not know what this is and need more information.	
Testing & Random Program	
Random Testing for DOT employees <input type="checkbox"/> Yes <input type="checkbox"/> No Number of DOT employees _____	
What DOT MODE are your employees <input type="checkbox"/> FMCSA <input type="checkbox"/> FTA <input type="checkbox"/> FAA <input type="checkbox"/> FRA <input type="checkbox"/> PHMSA	
Random Testing for Non-DOT employees <input type="checkbox"/> Yes <input type="checkbox"/> No If yes <input type="checkbox"/> Monthly or <input type="checkbox"/> Quarterly	
How many Non-DOT employees do you want selected per selection? _____	
DOT Exams <input type="checkbox"/> Yes <input type="checkbox"/> No Do you need us to send you a copy of the certificate <input type="checkbox"/> Yes <input type="checkbox"/> No	

Pricing:

Annual Random Program Fee	\$165.00 per year
Initial Random Program Set up fee	\$50.00 onetime fee.
DOT Drug Test	\$60.00
DOT Breath Alcohol Test	\$40.00
Breath alcohol confirmation test	\$40.00
Non-DOT Mirror Drug Test	\$60.00
FMCSA Clearinghouse limited queries	\$20.00 per person.
DOT Exam	\$110.00
Hearing Test Audiogram.	\$50.00
DOT Reasonable suspicion Supervisor Training	\$75.00

Company representative signature

Printed Name

Date

**CITY OF MEDICAL LAKE
SPOKANE COUNTY, WASHINGTON
RESOLUTION NO. 23-574**

**A RESOLUTION OF THE CITY OF MEDICAL LAKE AMENDING THE ADOPTED
FINANCIAL POLICY FOR ELECTRONIC FUND TRANSFERS FOR THE CITY OF
MEDICAL LAKE, WASHINGTON**

WHEREAS, the City of Medical Lake (“City”) adopted Resolution 527 Electronic Fund Transfer Usage Policy on the 20th day of October 2020; and

WHEREAS, it is best practice to review and update policies every one (1) to three (3) years; and

WHEREAS, City staff reviewed the current Electronic Fund Transfer policy and recommends language be added to the policy for increased security and controls over electronic receipts and disbursements; and

WHEREAS, the Finance Committee reviewed the proposed update to the City’s credit card policy on January 17, 2023, and recommended no changes.

NOW, THEREFORE, be it resolved by the City Council of the City of Medical Lake, Washington as follows:

Section 1. Electronic Fund Transfer Policy Adopted. The Council hereby adopts the amended City of Medical Lake Electronic Fund Transfer Policy, attached hereto as Exhibit “A”, which is incorporated herein by this reference, to be added to the City’s Financial Policies and assigned policy number 14.103 for the City of Medical Lake.

Section 2. Severability. If any section, sentence, clause, or phrase of this Resolution shall be found to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of said Resolution.

Section 3. Effective Date. This Resolution shall become effective immediately upon passage by the Medical Lake City Council.

Adopted this 21st day of February, 2023.

Terri Cooper, Mayor

ATTEST:

Koss Ronholt, Clerk/Treasurer

APPROVED AS TO FORM:

Sean P. Boutz, City Attorney

City of Medical Lake

POLICY & PROCEDURES

Electronic Fund Transfers (EFT)

Financial Policy 14.103

Policy Purpose

This policy is established to provide guidelines that will ensure good stewardship over City resources through a uniform method of procedures and controls for Electronic Fund Transfer payments and receipts.

Definitions

- Electronic Fund Transfers – Any payment or deposit that is paid or received electronically (ACH, Bank Draft, etc.)

Responsibility and Accountability

1. It is the responsibility of staff who have access to City or vendor bank account information to:
 - a. Safeguard written or printed bank account information by storing in a locked cabinet or safe, to which only permitted staff have access.
2. Only transmit bank account information to known and trusted sources, through Secure File Transfer, if available. The Finance Director shall serve as primary EFT administrator to manage and control access to the systems used to process EFT transactions. The administrator shall ensure that adequate separation of duties exists in accordance with accepted internal control standards. In addition, the administrator shall ensure approval and maintenance of user system IDs, user permissions, including authorized representatives and their associated transfer limits. The City Administrator has authority to serve as backup administrator.
 - a. The EFT administrator will also be responsible for managing the list of approved EFT portals. In addition to payroll benefit and government agency portals, the EFT administrator can approve and document vendor portals that are safe to use for EFT payments. EFT payments must not be made to vendors that are not on the Approved EFT Vendor list.

Procedures

1. The procedure to initiate, approve, and record an EFT payment is subject to the same financial policies, procedures, and controls that govern disbursements made by any other means.
 - a. Dual control: the staff that initiates a transfer will not be the same staff that reviews or updates said transfer.
 - b. Approval will be required from two authorized signers, just as with checks.
2. EFT transactions will not be made without proper authorization of affected parties in accordance with federal and state statutes and accepted business practices.
3. All EFT payments should be initiated by secure computer-based systems:
 - a. Bank-operated portals that incorporate dual control and time-limited tokens/digital PIN or signature software.
 - b. Known payroll benefit or government agency portals, such as IRS, AWC, DRS and DOR.
 - c. Approved vendor portals.
4. Controls for each type of EFT are as follows:
 - a. Bank Transfers: transfers between City-owned bank accounts and State LGIP accounts have minimal risk and controls will be limited to controls over bank portal user access and security.
 - b. EFT Deposits: electronic deposits from other entities to the City's bank accounts have minimal risk. However, controls related to the initiation or set-up of the deposit must be in place. Staff shall only

submit bank information to trusted agencies or known contacts and must use Secure File Transfer, whenever possible.

- c. EFT Disbursements (other than payments to payroll benefits)
 - i. Payroll: To establish Payroll Direct Deposits, employees must submit a hard copy of the completed Direct Deposit Agreement Form to the Finance Director. No electronic signatures will be accepted. Any change to banking information will require a newly completed form. Employee signatures will be verified against signature on file. If an employee submits a change request without enough time for authorization prior to payroll, payment will be made by check until such time as the information can be verified.
 - ii. Vendors: Finance Director will review all EFT payments for validity and ensure that all EFT payments are being made to vendors on the Approved EFT Vendor list. Changes to vendor bank account or contact information must be submitted via EFT Vendor/Payee Change Form.

**CITY OF MEDICAL LAKE
SPOKANE COUNTY, WASHINGTON
RESOLUTION NO. 23-575**

**A RESOLUTION OF THE CITY OF MEDICAL LAKE APPROVING A
LOCAL AGENCY AGREEMENT WITH THE WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION**

WHEREAS, the City of Medical Lake (“City”) has certain existing ramps and driveway approaches in the City that require replacement to meet ADA compliance; and

WHEREAS, the Washington State Department of Transportation (“WSDOT”), through federal funding, has made available to the City specific funding to address and replace such ramp and driveway approaches throughout the City; and

WHEREAS, the WSDOT requires the City to enter into a Local Agency Agreement to obtain the funding; and

WHEREAS, City Staff recommends the City Council approve the Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDICAL LAKE, WASHINGTON as follows:

Section 1. Approval of Agreement. The Council hereby approves the Agreement in the form attached to this Resolution as Exhibit “A” and by reference is incorporated herein.

Section 2. Authorization. The Mayor is authorized and directed to execute the Agreement on behalf of the City. The Mayor and City Administrator are each hereby authorized and directed to take such further action as may be appropriate in order to affect the purpose of this Resolution and the Agreement authorized hereby.

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

Section 4. Effective Date. This Resolution shall become effective immediately upon its adoption.

ADOPTED this _____ day of February, 2023.

Mayor, Terri Cooper

Attest:

Approved as to Form:

Koss Ronholt, City Clerk

City Attorney, Sean P. Boutz

Agency

Address

<p>CFDA No. 20.205 - Highway Planning and Construction (Catalog of Federal Domestic Assistance)</p> <p>Project No.</p> <p>Agreement No.</p> <p style="text-align: center;">For WSDOT Use Only</p>
--

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) 2 CFR Part 180 – certifying that the local agency is not excluded from receiving Federal funds by a Federal suspension or debarment, (5) the policies and procedures promulgated by the Washington State Department of Transportation, and (6) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name	Length
Termini	
Description of Work	

Project Agreement End Date

Proposed Advertisement Date

<p>Claiming Indirect Cost Rate</p> <p>Yes No</p>

Type of Work	Estimate of Funding		
	(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE			
% a. Agency			
% b. Other			
Federal Aid Participation Ratio for PE			
c. Other			
d. State Services			
e. Total PE Cost Estimate (a+b+c+d)			
Right of Way			
% f. Agency			
% g. Other			
Federal Aid Participation Ratio for RW			
h. Other			
i. State Services			
j. Total R/W Cost Estimate (f+g+h+i)			
Construction			
% k. Contract			
% l. Other			
m. Other			
Federal Aid Participation Ratio for CN			
n. Other			
o. Agency			
p. State Services			
q. Total CN Cost Estimate (k+l+m+n+o+p)			
r. Total Project Cost Estimate (e+j+q)			

Agency Official

By
Title
Agency Date

Washington State Department of Transportation

By
Director, Local Programs
Date Executed

Construction Method of Financing (Check Method Selected)

State Ad and Award

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction cost (line 5, column 2) in the amount of

\$ _____ at \$ _____ per month for _____ months.

Local Force or Local Ad and Award

Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on _____, _____, Resolution/Ordinance No. _____.

Provisions

I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal

funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted

promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 60 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S. C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

- (1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.
- (2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.
- (3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.
- (4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;
- (b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

- (1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
- (2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
- (3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
- (4) The Secretary is notified by the Federal Highway Administration that the project is inactive.
- (5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, 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 the Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

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 as 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.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions

Instructions

1. **Agency Name and Billing Address** – Enter the Agency of primary interest which will become a party to the agreement.
2. **Project Number** – Leave blank. This number will be assigned by WSDOT.
3. **Agreement Number** – Leave blank. This number will be assigned by WSDOT.
4.
 - a. **Project Description** – Enter the project name, total length of the project (in miles), and a brief description of the termini. Data entered here must be consistent with the name, length, and termini noted in the STIP and Project Prospectus
Example: (Name) “Regal Road”, (Length) “1.2 miles”, (Termini) “Smith Road to Main Street”
 - b. **Description of Work** – Enter a concise statement of the major items of work to be performed. Statement must be consistent with the description of work noted in the STIP and Project Prospectus.
Example: “Overlay Regal Road; install curb, gutter, and sidewalk; illumination; and traffic signal at the intersection of Regal Road and Dakota Avenue.”
 - c. **Project Agreement End Date** – Enter the Project Agreement End Date (mm/dd/yy). This date is based on the project’s Period of Performance (2 CFR 200.309).

For Planning Only projects – WSDOT recommends agencies estimate the end of the project’s period of performance and add three years to determine the “Project Agreement End Date”.

For PE and RW – WSDOT recommends agencies estimate when the phase will be completed and add three years to determine the “Project Agreement End Date”. For Construction – WSDOT recommends agencies estimate when construction will be completed and add three years to determine the “Project Agreement End Date”.
 - d. **Proposed Advertisement Date** – At construction authorization only, enter the proposed project advertisement date (mm/dd/yy).
 - e. **Claiming Indirect Cost Rate** – Check the Yes box if the agency will be claiming indirect costs on the project. For those projects claiming indirect costs, supporting documentation that clearly shows the indirect cost rate being utilized must be provided with the local agency agreement. Indirect cost rate approval by your cognizant agency or through your agency’s self-certification and supporting documentation is required to be available for review by FHWA, WSDOT and /or State Auditor. Check the No box if the agency will not be claiming indirect costs on the project. See section 23.5 for additional guidance.
4. **Type of Work and Funding (Round all dollar amounts to the nearest whole dollar)**
 - a. **PE** – Lines a through d show Preliminary Engineering costs for the project by type of work (e.g., consultant, agency, state services, etc.).

*Federal aid participation ratio for PE – enter ratio for PE lines with amounts in column 3.
 - **Line a** – Enter the estimated amount of agency work in columns 1 through 3.
 - **Line b & c** – Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.
 - **Line d** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
 - **Line e** – Total of lines a + b + c + d.
 - b. **Right of Way** – If a Right of Way phase is authorized on the project, the appropriate costs are shown in lines f through i.

*Federal aid participation ratio for RW – enter ratio for RW lines with amounts in column 3.
 - **Line f** – Enter the estimated amount of agency work in columns 1 through 3.
 - **Line g & h** – Identify user, consultant, etc., and enter the estimated amounts in columns 1 through 3.
 - **Line i** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
 - **Line j** – Total of lines f + g + h + i.
 - c. **Construction** – Lines k through p show construction costs for the project by type of work (e.g., contract, consultant, agency, state services, etc.).

*Federal aid participation ratio for CN – enter ratio for CN lines with amounts in column 3.

- **Line k** – Enter the estimated cost of the contract.
- **Lines l, m, & n** – Enter other estimated costs such as utility and construction contracts or non-federally matched contract costs.
- **Line o** – Enter estimated costs of all construction related agency work.
- **Line p** – State Services. Every project must have funding for state services. Enter the estimated amounts in columns 1 through 3.
- **Line q** – Total Construction Cost Estimate. Total of lines k + l + m + n + o + p.

d. Total Project Cost Estimate

- **Line r** – Total Cost Estimate of the Project. Total of lines e + j + q.

*Please remember, if the federal aid participation rate entered is not the maximum rate allowed by FHWA, then the participation rate entered becomes the maximum rate allowed.

- Signatures** – An authorized official of the local agency signs the agreement and enters their title and date of signature (mm/dd/yy). **Note:** Do NOT enter a date on the Date Executed line.
- Method of Construction Financing** – Choose the method of financing for the construction portion of the project.
 - Method “A”** is used when the state administers the contract for the agency.
 - Method “B”** is also used when the state administers the contract for the agency.
 - Method “C”** is used with projects administered by the local agency. The agency will submit billings monthly through the state to FHWA for all eligible costs. The billings must document the payment requests from the contractor. If state-force work, such as audit and construction engineering, is to receive federal participation, it will be billed to the agency and FHWA simultaneously at the indicated ratio. To show continuous progress agencies should bill monthly until agreement is closed.
- Resolutions/Ordinances** – When someone other than the County Executive/Chairman, County Commissioners/Mayor is authorized to sign the agreement, the agency must submit to WSDOT with the agreement a copy of the Resolution/Ordinance designating that individual.
- Parties to the Agreement** – Submit one originally signed agreement form to the Region Local Programs Engineer. It is the responsibility of the local agency to submit an additional, originally signed agreement form if they need an executed agreement for their files. The agreement is first executed by the agency official(s) authorized to enter into the agreement. It is then transmitted to the state for execution by Local Programs. The agreement is dated at the time of final execution by Local Programs.



**Local Agency Federal Aid
Project Prospectus**

	Prefix	Route	()	Date	
Federal Aid Project Number				DUNS Number	
Local Agency Project Number		(WSDOT Use Only)		Federal Employer Tax ID Number	

Agency		CA Agency Yes No		Federal Program Title 20.205 Other	
Project Title			Start Latitude N		Start Longitude W
			End Latitude N		End Longitude W
Project Termini From-To			Nearest City Name		Project Zip Code (+4)
Begin Mile Post	End Mile Post	Length of Project		Award Type Local Local Forces State Railroad	
Route ID	Begin Mile Point	End Mile Point	City Number	County Number	County Name
WSDOT Region	Legislative District(s)		Congressional District(s)		Urban Area Number

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date	
				Month	Year
P.E.					
R/W					
Const.					
Total					

Description of Existing Facility (Existing Design and Present Condition)

Roadway Width	Number of Lanes

Description of Proposed Work

Description of Proposed Work (Attach additional sheet(s) if necessary)

Local Agency Contact Person		Title		Phone	
Mailing Address			City	State	Zip Code
Project Prospectus	By _____ Approving Authority				
	Title				Date

Agency	Project Title	Date
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Type of Proposed Work			Roadway Width	Number of Lanes
Project Type (Check all that Apply)				
New Construction	Path / Trail	3-R		
Reconstruction	Pedestrian / Facilities	2-R		
Railroad	Parking	Other		
Bridge				

Geometric Design Data						
Description	Through Route			Crossroad		
Federal Functional Classification	Urban	Principal Arterial		Urban	Principal Arterial	
		Minor Arterial			Minor Arterial	
	Rural	Collector		Rural	Collector	
		Major Collector			Major Collector	
	NHS	Minor Collector		NHS	Minor Collector	
		Local Access			Local Access	
Terrain	Flat	Roll	Mountain	Flat	Roll	Mountain
Posted Speed						
Design Speed						
Existing ADT						
Design Year ADT						
Design Year						
Design Hourly Volume (DHV)						

Performance of Work		
Preliminary Engineering Will Be Performed By	Others	Agency
	%	%
Construction Will Be Performed By	Contract	Agency
	%	%

Environmental Classification	
Class I - Environmental Impact Statement (EIS) Project Involves NEPA/SEPA Section 404 Interagency Agreement	Class II - Categorically Excluded (CE) Projects Requiring Documentation (Documented CE)
Class III - Environmental Assessment (EA) Project Involves NEPA/SEPA Section 404 Interagency Agreements	

Environmental Considerations

Agency	Project Title	Date
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Right of Way		
No Right of Way Needed * All construction required by the contract can be accomplished within the existing right of way.	Right of Way Needed	
	No Relocation	Relocation Required

Utilities	Railroad
No utility work required All utility work will be completed prior to the start of the construction contract All utility work will be completed in coordination with the construction contract	No railroad work required All railroad work will be completed prior to the start of the construction contract All the railroad work will be completed in coordination with the construction contract

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

FAA Involvement Is any airport located within 3.2 kilometers (2 miles) of the proposed project? Yes No

Remarks

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Date _____ Agency
 By _____ Mayor/Chairperson

**CITY OF MEDICAL LAKE
SPOKANE COUNTY, WASHINGTON
RESOLUTION NO. 23-576**

**A RESOLUTION OF THE CITY OF MEDICAL LAKE APPROVING A
CONSULTANT AGREEMENT WITH THE WASHINGTON STATE
TRANSPORTATION IMPROVEMENT BOARD**

WHEREAS, on December 2, 2022, the City of Medical Lake (“City”) was awarded certain funding for the Lefevre Street Restriping and Sidewalk project from the Washington State Transportation Improvement Board (“TIB”) pursuant to TIB project number P-E-897(P-10)-1; and

WHEREAS, the City seeks to retain the services of a consultant, E&H Engineering, Inc., to design and prepare construction drawings and specifications for the TIB project; and

WHEREAS, the City does not have the staff to design and prepare such drawings and specifications necessitating the assistance of a consultant; and

WHEREAS, to retain E&H Engineering, Inc. the City is required to enter into a TIB Consultant Agreement (“Agreement”); and

WHEREAS, City Staff recommends the City Council approve the Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MEDICAL LAKE, WASHINGTON as follows:

Section 1. Approval of Agreement. The Council hereby approves the Agreement in the form attached to this Resolution as Exhibit “A” and by reference incorporated herein.

Section 2. Authorization. The Mayor is authorized and directed to execute the Agreement on behalf of the City. The Mayor and City Administrator are each hereby authorized and directed to take such further action as may be appropriate in order to affect the purpose of this Resolution and the Agreement authorized hereby.

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

Section 4. Effective Date. This Resolution shall become effective immediately upon its adoption.

ADOPTED this 21st day of February, 2023.

Mayor, Terri Cooper

Attest:

Approved as to Form:

Koss Ronholt, City Clerk

City Attorney, Sean P. Boutz

TIB PROJECT NUMBER P-E-897(P10)-1		PROJECT PHASE (check one) <input checked="" type="checkbox"/> Design <input type="checkbox"/> Construction	
PROJECT TITLE & WORK DESCRIPTION Lefevre St. Lane Restriping & Sidewalks- 2024: Design and prepare construction drawings and specifications for the installation of 990 tons of CSTC, 530 tons of HMA, 780 s.y. of new 4" & 6" concrete, removal of existing striping and installation of 30,000 l.f. of new and revised striping, adding a center turn lane. WSDOT Approvals.			
CONSULTANT NAME & ADDRESS E&H Engineering, Inc. 12611 W. Sunset Hwy. Ste. B Airway Heights, WA 99001			
AGREEMENT TYPE (check one)			
<input checked="" type="checkbox"/> LUMP SUM \$78,700.00 (Design Phase)			
<input 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 type="checkbox"/> Fixed Rate _____ %	
		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 WORK			
DBE PARTICIPATION <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No _____ %		WBE PARTICIPATION <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No _____ %	
COMPLETION DATE December 31, 2025		MAXIMUM AMOUNT PAYABLE \$78,700.00	

THIS AGREEMENT, made and entered into this _____ day of _____, 2023, between the City of Medical Lake, Washington, hereinafter called the AGENCY, and the above organization hereinafter called the CONSULTANT. The Transportation Improvement Board hereinafter called the TIB, administers the following accounts: Urban Arterial Trust Account funds, Transportation Improvement Account funds, Small City Account funds, and City Hardship Assistance Account funds.

WITNESSETH THAT:

WHEREAS, the AGENCY desires to accomplish the above referenced project, with the aid of TIB funds in conformance with the rules and regulations promulgated by the TIB; 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 project level of effort for this project is detailed in Exhibit B 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 or individuals shall be coordinated through the AGENCY.

The CONSULTANT shall attend coordination, progress and presentation meetings with the AGENCY or such Federal, Community, State, 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 number of hours or days notice required shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit B attached hereto and made part of this AGREEMENT. The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, that 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. Goals for Disadvantaged Business Enterprises (DBE), Minority Business Enterprises (MBE), and Women-owned Business Enterprises (WBE) if required shall be shown in the heading of this Agreement.

The original copies of all reports, PS&E, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All designs, drawings, specifications, documents, and other work products prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for the PROJECT and are 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 of 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

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided in Exhibit C attached hereto, and by this 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 specified in Section II, Scope of Work.

VI SUBCONTRACTING

The AGENCY permits subcontracts for those items of work as shown in Exhibit G to this Agreement. Compensation for this subconsultant work shall be based on the cost factors shown on Exhibit G, attached hereto and by this reference made a part of this AGREEMENT.

The work of the subconsultant 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 subconsultant shall be substantiated in the same manner as outlined in Section V. All subcontracts exceeding \$10,000 in cost shall contain all applicable provisions of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and subcontractor, any contract or any other relationship.

VII EMPLOYMENT

The CONSULTANT warrants that he/she has 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 or might arise under any Worker'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 CONSULTANTs 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 STATE, or the AGENCY, except regularly retired employees, without written consent of the public employer of such person.

VIII NONDISCRIMINATION

The CONSULTANT agrees not to discriminate against any client, employee or applicant for employment or for services because of race, creed, color, national origin, marital status, sex, age or handicap except for a bona fide occupational qualification with regard to, but not limited to the following: employment upgrading, demotion or transfer, recruitment or any recruitment advertising, layoffs or terminations, rates of pay or other forms of compensation, selection for training, rendition of services. The CONSULTANT understands and agrees that if it violates this provision, this AGREEMENT may be terminated by the AGENCY and further that the CONSULTANT shall be barred from performing any services for the AGENCY now or in the future unless a showing is made satisfactory to the AGENCY that discriminatory practices have terminated and that recurrence of such action is unlikely.

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

- A. COMPLIANCE WITH REGULATIONS: The CONSULTANT shall comply with the Regulations relative to nondiscrimination in the same manner as in Federally-assisted programs of the Department of Transportation, 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.

- B. **NONDISCRIMINATION:** The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, creed, color, sex, age, marital status, national origin or handicap except for a bona fide occupational qualification in the selection and retention of subconsultants, including procurements 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 contract covers a program set forth in Appendix II of the Regulations.
- C. **SOLICITATIONS FOR SUBCONSULTANTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT:** In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subconsultant or supplier shall be notified by the CONSULTANT of the CONSULTANTs obligations under this AGREEMENT and the Regulations relative to nondiscrimination on the grounds of race, creed, color, sex, age, marital status, national origin and handicap.
- D. **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 the AGENCY or TIB to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of the CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the AGENCY, or the TIB as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the CONSULTANTs noncompliance with the nondiscrimination provisions of this AGREEMENT, the AGENCY shall impose such sanctions as it or the Transportation Improvement Board may determine to be appropriate, including, but not limited to:
1. Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or
 2. Cancellation, termination or suspension of the AGREEMENT, in whole or in part.
- F. **INCORPORATION OF PROVISIONS:** The CONSULTANT shall include the provisions of paragraphs (A) through (G) in every subcontract, including procurements 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 subconsultant or procurement as the AGENCY or the Transportation Improvement Board may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY to enter into such litigation to protect the interests of the AGENCY, and in addition, the CONSULTANT may request the TIB to enter into such litigation to protect the interests of the TIB.
- G. **UNFAIR EMPLOYMENT PRACTICES:** The CONSULTANT shall comply with RCW 49.60.180 prohibiting unfair employment practices and the Executive Orders numbered E.O.70-01 and E.O.66-03 of the Governor of the State of Washington.

IX TERMINATION OF AGREEMENT

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

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

No payment shall be made for any work completed after ten days following receipt by the CONSULTANT of the Notice of Termination. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due 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.

In the event the services of the CONSULTANT are terminated by the AGENCY for fault 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 maybe 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 in the previous paragraph.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANTs failure to perform is without it or its employees fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY in accordance with the provision of this AGREEMENT.

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. The 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 AGENCYs concurrence, desire to terminate this AGREEMENT, payment shall be made as set forth in the second paragraph of this section.

In the event this AGREEMENT is terminated prior to completion, the original copies of all reports and other data, PS&E materials furnished to the CONSULTANT by the AGENCY and documents prepared by the CONSULTANT prior to said termination, shall become and remain the property of the AGENCY and may be used by it without restriction. Such unrestricted use, not occurring as a part of this PROJECT, shall be without liability or legal exposure to the CONSULTANT.

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 the scope of judicial review provided under Washington Case Law.

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 the AGENCY is located in. 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 the AGENCY is located in.

XIII LEGAL RELATIONS AND INSURANCE

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

The CONSULTANT shall indemnify and hold the AGENCY and the STATE of Washington, and their 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 and the STATE against and hold harmless the AGENCY and the STATE from claims, demands or suits based solely upon the conduct of the AGENCY and 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 and 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 and the STATE of defending such claims and suits, etc. 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 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. The CONSULTANT recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation.

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 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 RCW 48.

Insurance Coverage

A. Worker's compensation and employer's liability insurance as required by the STATE.

B. General commercial liability insurance in an amount not less than a single limit of one million and 00/100 Dollars (\$1,000,000.00) for bodily injury, including death and property damage per occurrence.

Excepting the Worker's Compensation insurance and any professional liability insurance secured by the CONSULTANT, the AGENCY will be named on all certificates of insurance as an additional insured. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this 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 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 dollars, whichever is the greater unless modified by Exhibit H. 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 them 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 proposal for adjustment (hereafter referred to as proposal) under this clause within 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 proposal 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 condition 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**

The CONSULTANT shall place his endorsement on all plans, estimates or any other engineering data furnished by him.

**XVI
TIB AND AGENCY REVIEW**

The AGENCY and TIB 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 A-1, are the Certifications of the Consultant and the Agency.

**XVIII
COMPLETE AGREEMENT**

This document and referenced attachments contains 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 materials 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 first above written.

By Thomas P. Duggan By _____

Consultant E&H Engineering, Inc. City of MEDICAL LAKE

EXHIBIT A-1 Certification of Consultant

Project No. P-E-897(P10)-1	City/County City of Medical Lake
-------------------------------	-------------------------------------

I hereby certify that I am Thomas P. Haggarty, P.E. a duly authorized representative of the firm of E&H Engineering, Inc. whose address is 12611 W. Sunset Hwy. Ste. B Airway Heights, WA 99001 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 this contract.
- (b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of a firm or person in connection with carrying out the contract.
- (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 the contract; except as here expressly stated (if any):

I further certify that the firm I hereby represent is authorized to do business in the State of Washington and that the firm is in full compliance with requirements of the Board of Professional Registration.

I acknowledge that this certificate is to be available to the Transportation Improvement Board (TIB), in connection with this contract involving participation of TIB funds and is subject to applicable State and Federal laws, both criminal and civil.

02/15/23
Date


Signature

Certification of Agency Official

I hereby certify that I am the AGENCY Official of the City of MEDICAL LAKE, Washington and that the above consulting firm or his/her representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract to:

- (a) Employ or retain, or agree to employ or 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 here expressly stated (if any).

I acknowledge that this certificate is to be available to the TIB, in connection with this contract involving participation of TIB funds and is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature

EXHIBIT B-1 Scope of Work

<p>Project. No. P-E-897(P10)-1</p>
<p>Describe the Scope of Work</p> <p>DESIGN:</p> <p>Prepare complete Plans and Specifications for the proposed project suitable for selection of a contractor through the competitive bidding process. Elements of work include:</p> <ul style="list-style-type: none">Develop Site Topography (Subcontractor)Provide layout, drawings, details and specifications for sidewalk & driveway repairs and replacement.Provide layout, drawings, details, and specifications for additional paving areas on Lefevre St.Provide layout, drawings, details, and specifications for restriping Lefevre St.Prepare full construction Plans and Specifications (Contract Documents)30% TIB Review & WSDOT Basis of DesignFull WSDOT Design Documentation for SR902 restriping.60% TIB Review & WSDOT Intersection/Channelization Plans for ApprovalsWSDOT Eastern Region Design Office submittal, comments, changes, approvals.TIB & WSDOT project administrationWSDOT Plans & Documents Archive and Project ConcurrenceAttend agency meetings upon request or as neededAdvertisement for Bids to PaperBidding Questions & AddendumsOpen BidsContract AwardHold Pre-Construction MeetingIssue Notice to Proceed
<p>Documents to be Furnished by the Consultant</p> <ul style="list-style-type: none">-Plans, Specifications, & Project Estimate (Electronic & Paper Sets)-WSDOT Restriping, Approvals, & Concurrence of Drawings and Specifications-TIB Bid Authorization Form-TIB Bid Award Updated Cost Estimate-Bidding Notices, Recommendation of Award, Award of Contract, Bonds & Insurance, and Notice to Proceed

EXHIBIT C-1

Payment

(Lump Sum)

A. Lump Sum Agreement

Payment for all consulting services for this project shall be on the basis of a lump sum amount as shown in the heading of this AGREEMENT.

The maximum amount payable, by the AGENCY to the CONSULTANT under this AGREEMENT, shall not exceed the amount shown in the heading of this AGREEMENT as maximum amount payable unless a supplemental agreement has been negotiated and executed by the AGENCY prior to incurring any costs in excess of the maximum amount payable.

B. Monthly Progress Payments

Partial payments may be made upon request of the CONSULTANT to cover the percentage of work completed and are not to be more frequent than one (1) per month.

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, and other related documents which are required to be furnished under the 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 the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

D. Inspection of Cost Records

The CONSULTANT and his/her subconsultants shall keep available for inspection by representatives of the AGENCY and/or the TIB for a period of three years after 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-year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records is completed.

EXHIBIT D-1
Consultant Fee Determination Summary Sheet
(Lump Sum, Cost Plus Fixed Fee, Cost per Unit of Work)

Prepared by Thomas P. Haggarty, P.E.				Date 02/15/2023	
Project Lefevre St. Restriping & Sidewalks - 2024					
Direct Salary Cost (DSC)					
Classification	Man Hours		Rate		Cost
Sr. Civil Engineers, P.E.	50	x	\$56.00	=	\$2,800.00
Civil Engineers, P.E.	230	x	\$48.00	=	\$11,040.00
Engineering Technicians / Drafters	240	x	\$36.00	=	\$8,640.00
Clerical	40	x	\$30.00	=	\$1,200.00
		x		=	
		x		=	
		x		=	
		x		=	
TOTAL DSC					\$23,680.00
OVERHEAD (OH Cost including Salary Additives)					
OH Rate x DSC or <u>170</u> % x \$ <u>23,680.00</u>					\$40,256.00
FIXED FEE (FF)					
FF Rate x DSC or <u>±5.4</u> % x \$ <u>23,680.00</u>					\$1,276.00
REIMBURSABLES					
Itemized Mileage (60 miles @ \$0.625/mile) & \$450.00 (Hard Copy Printing for Bidding & Const.)					\$488.00
SUBCONSULTANT COST (See Exhibit G)					\$13,000.00
GRAND TOTAL					\$78,700.00

EXHIBIT D-2
Consultant Fee Determination Summary Sheet
(Specific Rates of Pay)
FEE SCHEDULE

Discipline or Job Title	Hourly Rate	Overhead @ 1.70	Profit @ 5 (±)	Rate Per Hour
Sr. Civil Engineers, P.E.	\$56.00	\$95.00	\$5.00	\$156.00
Civil Engineers, P.E.	\$48.00	\$82.00	\$4.00	\$134.00
Engineering Technicians	\$36.00	\$61.00	\$3.00	\$100.00
Clerical	\$30.00	\$51.00	\$3.00	\$84.00

EXHIBIT E-1
Breakdown of Overhead Cost

(Sample Only - Actual line item and cost categories and percentage for firm should be submitted.)

FRINGE BENEFITS	
FICA	\$1,986.00
Unemployment	\$1,475.00
Medical Aid and Industrial Insurance	\$809.00
Company Insurance and Medical	\$2,695.00
Vacation, Holiday, and Sick Leave	\$2,814.00
Commission, Bonuses/Pension Plan	\$2,553.00
TOTAL FRINGE BENEFITS	\$12,332.00
GENERAL OVERHEAD	
State B&O Taxes	\$1,030.00
Insurance	\$4,777.00
Administration and Time Not Assignable	\$3,688.00
Printing, Stationery, and Supplies	\$999.00
Professional Services	\$2,255.00
Travel Not Assignable	\$2,695.00
Telephone and Telegraph Not Assignable	\$2,270.00
Fees, Dues, Professional Meetings	\$4,255.00
Utilities and Maintenance	\$1,532.00
Professional Development	\$851.00
Rent	\$2,270.00
Equipment Support	\$877.00
Office Miscellaneous, Postage	\$426.00
TOTAL GENERATED OVERHEAD	\$27,924.00
GRAND TOTAL	\$40,256.00

EXHIBIT F-1
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 and 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 G-1
Subcontracted Work

The AGENCY permits subcontracts for the following portions of the work of this AGREEMENT:

The Consultant will subcontract with Whipple Surveying, a professional land surveying firm in Spokane, WA to perform site topographic work (est. at \$13,000.00). This cost is included in the basic engineering fee.

COMBINED DA/PDA				
Index #	Item Abbr.	Description	In PDA?	Comments
PDA.1.0	Introductory Documents			
PDA.1.1	TOC	Table of Contents	Required	See this document.
PDA.1.2	Memo	Memorandum	Required	
PDA.1.3	VM	Vicinity Map	Required	
PDA.2.0	Project Summary Documents			
PDA.2.1	PP	Project Profile	Required	
PDA.2.2	ERS	Environmental Review Summary	Required	
PDA.2.3	BOD	Basis of Design	Required	
PDA.2.4	CS	Complete Streets	Required	
PDA.3.0	Core Documents			
PDA.3.1	DPS	Design Parameter Sheets	N/A	
PDA.3.2	SA	Safety Analysis	N/A	
PDA.3.3	DA	Design Analysis	N/A	
PDA.3.4	MEF	Maximum Extent Feasible	N/A	
PDA.3.5	PFA	Plans for Approval	N/A	
PDA.3.6	APP	Alignment Plans and Profiles	N/A	
PDA.3.7	CostE	Cost Estimate	Required	
PDA.4.0	Environmental Documentation			
PDA.4.1	SEPA	SEPA	Required	
PDA.4.2	NEPA	NEPA	Required	

5 - DDP SUPPORTING DOCUMENTS

Index #	Item Abbr.	Description	Included In			Comments
			DA	PDA	N/A	
SD.5.1	ARR	Access Revision Report & Non-Access Feasibility Study	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.2	AH	Access Hearing	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.3	AR	Access Report	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.4	LoN	Barrier Length of Need Calculations	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.5	VertC	Bridge Vertical Clearance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.6	Fence	Fencing	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.7	GeoR	Geotechnical Report	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.8	HydR	Hydraulics Assessment/Report	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
SD.5.9	ICE	Intersection Control Evaluation (ICE)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.10	Illum	Illumination (Additional)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.11	ITS	ITS Systems Engineering Documentation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.12	MSR	Materials/Surface Reports	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.13	MX	Median Crossover Approval	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.14	MUTCD	MUTCD Request for Experimentation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.15	Ped	Pedestrian Facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.16	PAP	Public Art Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.17	RRX	Railroad Crossing Evaluation Team Findings	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.18	RRX_WUTC	Railroad Grade Crossing Petitions and WUTC Orders	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.19	CZ	Roadside Clear Zone inventory	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.20	SP	Signals Permit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.21	TA	Traffic Analysis	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
SD.5.22	VE	Value Engineering Recommendation Approval Form	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

6 - Other Approvals and Justifications						
Index #	Item Abbr.	Description	Included In			Comments
			DA	PDA	N/A	
SD.6.1	App	Approvals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SD.6.2	Just	Justifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SD.6.3	DD	Design Decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7 - Other Items						
Index #	Item	Description	Included In		Comments	
			DA	PDA		
SD.7.1	TMP	Transportation Management Plan	<input type="checkbox"/>	<input type="checkbox"/>		
SD.7.2	Self-Selected	[OTHER]	<input type="checkbox"/>	<input type="checkbox"/>		

Abbreviations:

- DA = Design Approval
- DDP = Design Documentation Package
- DM = Design Manual
- PDA = Project Development Approval
- SD = Supporting Document

Basis of Design

[Project Title]

[State Route], MP [Begin] to MP [End]
[Enter multiple SR and MP as necessary]

[Work Order Number], [WIN Number], [PIN Number]
[Month Day, Year]

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

Choose an item.

[City], Washington

SIGNATURES		Template Version 2.1
PREPARED BY	REGION APPROVAL	
	<p><i>Consult PDM #22-03 to determine if the BOD must be signed by the Regional Administrator</i></p> <p><i>[insert title]</i></p>	
ASSISTANT STATE DESIGN ENGINEER APPROVAL		
<p><i>Consult Design Manual Chapter 300. If ASDE approval is not required, simply type "Not Applicable per Design Manual Chapter 300." in this box.</i></p>		
PRACTICAL DECISION MAKING		
<p>Practical decision making is a philosophy that considers each situation, aligns with our financially constrained budget environment, and encourages incremental, flexible, and sustainable investments by focusing on identified performance needs and engaging stakeholders at the right time.</p> <p>There are six core principles that capture the essence of practical decision making:</p> <ul style="list-style-type: none"> ▪ Starts with a clear purpose and need ▪ Engages stakeholder and looks for partnerships ▪ Considers incremental, phase solutions ▪ Considers resource constraints and life cycle cost ▪ Considers overall system performance ▪ Applies innovation and creativity <p>These six core principles are incorporated throughout the document.</p>		

NOTE TO DESIGNERS

There are tips provided in red italics text. This text along with the BOD instructions are intended to help you fill out this document. Delete the red text [including this note] in the final version of the document.

Related Documents and Technical Reports

Insert a list of documents and reports that were integral to the origination of this project. Use Chicago style referencing, a Chicago Citation Generator is available here: [Free Chicago Citation Generator \[Updated for 2022\] \(mybib.com\)](http://FreeChicagoCitationGenerator.com).

General Project Information

Route Information	SR	NHS (Y/N)	<u>Functional Class</u>	<u>City</u>		<u>County</u>	
Project Information	Begin SRMP	End SRMP	Budget	Funding Sub-Program	Posted Speed	<u>AADT</u>	<u>Truck %</u>
Brief Project Description							
Important Project History or Background							
Future and Related Projects							
Major Environmental Considerations	<p><i>If an Environmental Review Summary is available, summarize the highlights here. If not, conduct a GIS review of the project area to evaluate the following:</i></p> <ul style="list-style-type: none"> ▪ <i>Chronic Environmental Deficiencies</i> ▪ <i>Fish passage barriers</i> ▪ <i>Historic bridges</i> ▪ <i>Stormwater retrofits</i> ▪ <i>Community/social mitigation</i> ▪ <i>Other considerations: Are any streams, wetlands, water bodies, or other critical areas present that could be impacted?</i> ▪ <i>Climate vulnerability</i> ▪ <i>Habitat connectivity</i> ▪ <i>Noise walls</i> ▪ <i>Wetland mitigation sites</i> <p>IMPORTANT: <i>Verify information with the Region Environmental Office. Seek ESO assistance if needed.</i></p>						

Section 1) Project Needs

Baseline Needs (BN)

BN1 – TITLE

Background: *Write a short paragraph providing the background behind why this is a baseline need for the project. Make sure you address what are the contributing factors to this baseline need. If this project is a preservation project that would normally be BOD exempt per DM 1100.04(1)(a), state such here and mark the metric and target as "N/A".*

Metric: *What are you going to measure? This needs to be a simple statement or a few words.*

Target: *What is the project's target for the above metric? Keep this simple.*

BN# – TITLE

Background: *Write a short paragraph providing the background behind why this is a baseline need for the project. Make sure you address what are the contributing factors to this baseline need.*

Metric: *What are you going to measure? This needs to be a simple statement or a few words.*

Target: *What is the project's target for the above metric? Keep this simple.*

Complete Streets Needs

Does Complete Streets apply to the project? No Yes

Refer to the Complete Streets Project Screening Worksheet. If the result of the worksheet was a complete streets analysis was required, then check Yes and provide highlights of the Project Screening Worksheet in this box. Leave the remainder of the Complete Streets Model Process for Sections 2 and 4 of the BOD. If Complete Streets is not applicable, check "no" and insert a statement as to why and delete the next two rows of this BOD. If the Complete Streets Model Process results in a "no" that involved a determination by the Regional Administrator (see [PDM #22-03](#)), summarize the decision here and have the Regional Administrator sign in the "Region Approver" box on the signature sheet of this BOD (Page 1).

Complete Streets for Pedestrians *Delete this cell if you are not a Complete Street project.*

Background: *Write a short paragraph providing the background behind complete streets for pedestrians.*

Metric: Pedestrian Level of Traffic Stress (PLTS)

Target: *2 or better*

Complete Streets for Bicyclists *Delete this cell if you are not a Complete Street project.*

Background: *Write a short paragraph providing the background behind complete streets for bicyclist. Delete this cell if you are not a Complete Street project.*

Metric: Bicycle Level of Traffic Stress (BLTS)

Target: *2 or better*

Contextual Needs (CN)

CN# – TITLE ... add CN1, CN2, etc. If no contextual needs are identified, insert "N/A" for the TITLE.

Background: *Write a short paragraph providing the background behind why this is a contextual need for the project. Make sure you address what are the contributing factors to this contextual need. If there are no contextual needs identified, state such in this background section and put "N/A" for the metric and target.*

Metric: *What are you going to measure? This needs to be a simple statement or a few words.*

Target: *What is the project's target for the above metric? Keep this simple.*

Safety Analysis

Was a Safety Analysis performed No Yes

If YES, enter the title and date. If NO enter why it was not needed. See DM Chapter 321 and the Safety Analysis Guide.

Existing Variance

Are there existing Design Variances within the Project Limits? No Yes

If YES, can this project correct any of the existing design variances?

Request a list of known variances from your ASDE. Go through this list and see if you have an opportunity to correct or change the elements associated with the design variance.

Section 2) Context

Roadway _____ MP _____ to MP _____

[Duplicate this section as necessary to reflect distinct segments with different context]

Multidisciplinary Team Members	<i>List the agencies, community stakeholders, and divisions involved in determining the context for this project. Include the partners from Step 3 of the Complete Streets Model Process.</i>					
Community Engagement	<p style="color: red;"><i>Describe past and planned community engagement.</i></p> <p style="color: red;"><i>For Complete Streets projects, seek feedback from the affected community (as part of normal M3 coordination) on preliminary concepts developed by the predesign team. Incorporate M3 and community feedback as appropriate.</i></p> <p style="color: red;"><i>Provide a summary here of how that feedback influenced the final alternatives documented in Section 4.</i></p>					
Freeway	<input type="checkbox"/> Rural <input type="checkbox"/> Urban		<input type="checkbox"/> Interstate <input type="checkbox"/> Non-Interstate			
Non-Freeway	Existing	<input type="checkbox"/> Rural <input type="checkbox"/> Suburban <input type="checkbox"/> Urban <input type="checkbox"/> Urban Core <i>See DM Chapter 1102.02(1)</i>				
	Future	<input type="checkbox"/> Rural <input type="checkbox"/> Suburban <input type="checkbox"/> Urban <input type="checkbox"/> Urban Core				
Bicycles – Complete Street? <input type="checkbox"/> No <input type="checkbox"/> Yes <i>If you are a Complete Street, select “Yes” and skip this section.</i>						
Accommodation	Prohibited	Low	Med	High	Involve Multidisciplinary Team Members	
Current	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Future	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Comments	<i>Describe any special design considerations that apply. If this is a complete street project, state “This project has been identified as a complete street and bicycle accommodation is taken into consideration in Sections 1 and 4 of the BOD.”</i>					
Pedestrians – Complete Street? <input type="checkbox"/> No <input type="checkbox"/> Yes <i>If you are a Complete Street, select “Yes” and skip this section.</i>						
Accommodation	Prohibited	Low	Med	High	Involve Multidisciplinary Team Members	
Current	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Future	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Comments	<i>Describe any special design considerations that apply here. If this is a complete street project, state “This project has been identified as a complete street and pedestrian accommodation is taken into consideration in Sections 1 and 4 of the BOD.”</i>					
Freight						
Classification	T-1	T-2	T-3	T-4	T-5	See Truck Freight Classification
Current	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Future	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Comments	<i>Coordinate with Multidisciplinary Team Members. Describe any special design considerations that apply here. If the project will be a complete street, confirm that freight is accommodated during alternatives development.</i>					
Transit						
Fixed route type	None	Local	Limited Stops	Express	Transit Agencies	
Current	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>List all transit agencies that operate within the project limits.</i>	
Future	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Comments	<i>See DM 1102.03(5). Coordinate with Multidisciplinary Team, describe special design considerations. If the project will be a complete street, confirm that transit vehicles and riders are accommodated during alternatives development.</i>					

Section 3) Design Controls

Roadway _____ MP _____ to MP _____

[Duplicate this section as necessary to align with the Context described in Section 2]

Design Year	<i>Design year and how it was determined (see DM 1103.02).</i>	
Design Vehicle	<i>Describe the intersection design vehicles for all intersections that will be modified by the project. State the Design Vehicle for each leg of the intersection (see DM 1103.03(4)).</i> <i>Describe the mainline design vehicle used for determining lane widths.</i> <i>See DM 1310.02(5) for more information about accommodating vs. designing for vehicles.</i>	
Terrain	<input type="checkbox"/> Level <input type="checkbox"/> Rolling <input type="checkbox"/> Mountainous See <u>WSDOT State Highway Log</u>	
Access Control	Existing	See <u>Access Master Plan Database</u>
	Planned	See <u>Access Master Plan Database</u>
	Proposed	
Target Speed	<i>Report the Target Speed(s) to be used on the project and describe how it was determined (see DM 1103.05).</i>	

Section 4) Alternatives

Alternatives Comparison Table

Alternative ID	Description	Cost	Baseline Needs ↓	BN1 Name	BN# Name <small>(Add columns for more BNs)</small>	Complete Streets Needs ↓	Pedestrian LTS	Bicycle LTS	Traffic Operations* <small>(when vehicle speed or capacity is</small>	Route Directness Index	Contextual Needs ↓	CN1 Name	CN2 Name <small>(Add columns for more CNs)</small>	Other Impacts ↓	Other Impacts	Other Impacts
A		Rate	↓	Rate	Rate	↓	LTS	LTS	Rate	Rate	↓	Rate	Rate	↓	Rate	Rate
B		Rate	↓	Rate	Rate	↓	LTS	LTS	Rate	Rate	↓	Rate	Rate	↓	Rate	Rate
C		Rate	↓	Rate	Rate	↓	LTS	LTS	Rate	Rate	↓	Rate	Rate	↓	Rate	Rate
D		Rate	↓	Rate	Rate	↓	LTS	LTS	Rate	Rate	↓	Rate	Rate	↓	Rate	Rate
E		Rate	↓	Rate	Rate	↓	LTS	LTS	Rate	Rate	↓	Rate	Rate	↓	Rate	Rate

Add or delete columns as necessary

Legend:
 ○ = Worst
 ◐ = Worse
 ◑ = Average
 ◒ = Better
 ● = Best

Cost Summary:
 Discuss how cost influenced the decision to choose your preferred alternative. We don't want a precise cost at this point. It is more important to have a general understanding of your cost in comparison to the other alternatives at this point in your project.

Baseline Need Summary:
 Give a summary of how the preferred alternative met or did not meet BN1. Reference the Preliminary Hydraulics Report (PHD) and indicate how the preferred alternative met the requirements of the PHD. If there are additional BNs, add a column for each additional BN and address how the preferred alternative met the need.

Complete Streets Need Summary:
 If this is not a complete streets project, then select "N/A" in the columns above and do nothing else. The reason for selecting "N/A" should be given in Section 1 of this BOD. Otherwise, for those projects that are complete streets, fill in the columns above and give a summary here on how your project addressed complete streets. The columns with black text are the minimum columns to consider. Other columns may be added as necessary.

* If vehicle capacity or speed is reduced, otherwise delete this column.

Contextual Need Summary:
 Give a summary of how the preferred alternative addressed the contextual needs (if any). If multiple CNs were defined, add a column for each additional CN. If there are no contextual needs for the project, delete these columns and remove this summary section.

Other Impacts Summary:
 Provide a summary of how "Other Impacts" helped select the preferred alternative.

Let's take a moment to explain the difference between a need and an impact. A need is a purpose of a project; why you are there. An example of a need is to preserve the pavement, improve safety, provide multimodal connectivity, or address a fish barrier. An impact is how your project affects the project location, or a result of the project. For example, you are considering alternatives of a roundabout and a signal. Both will have different affects on the project location and you may affect right of way, maintenance cost, stormwater, wetlands, and utilities. The project need might have been to improve safety, but both the signal and the roundabout affect the project location in different ways ... they have different impacts. These impacts may have a bearing on selecting the preferred alternative and they can be shown in this Alternatives Comparison Table as "Other Impacts".

Preferred Alternative ____ was selected because:
 Write a short paragraph on why you selected the preferred alternative. You may reference other documents that my have more detail, such as the PHD or Intersection Control Evaluation (ICE).

Section 5) Design Elements Changed

*For each design element below, identify the design elements that will have dimensions changed in the **preferred alternative** for each alignment or location. You can group alignments into a single location if desired. You may need to add or delete columns.*

Design Element	Alignment #1	Alignment #2	Alignment #3	Alignment #4	Alignment #5	Alignment #6
1. Lane						
2. Median / Buffer						
3. Shoulder						
4. Streetside / Roadside Zone						
5. Pedestrian Facility						
6. Bicycle Facility						
7. Bridges and Buried Structures						
8. Horizontal Alignment						
9. Vertical Alignment						
10. Cross Slope						
11. Side Slope						
12. Clear Zone						
13. Barrier, Guardrail & Rumble Strips						
14. Signals, Illumination, and ITS						
15. Signing and Delineation						
16. On/Off Connections						
17. Intersection / Ramp Terminal						
18. Road Approaches						
19. Roundabout						
20. Access Control						

**CITY OF MEDICAL LAKE
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. 1108**

**AN ORDINANCE OF THE CITY OF MEDICAL LAKE, WASHINGTON RELATING
TO CRITICAL AREAS AND AMENDING AND REPEALING VARIOUS SECTIONS
AND SUBSECTIONS AND ADDING NEW SECTIONS TO TITLE 17, CHAPTER 17.10
OF THE MEDICAL LAKE MUNICIPAL CODE.**

WHEREAS, City of Medical Lake Municipal Code (MLMC) 17.10 contains the City development regulations pertaining to the protection of critical areas within the City; and

WHEREAS, the Growth Management Act (GMA) requires the City of Medical Lake to review and update its' Critical Areas Regulations pursuant to RCW 36.70A.130; and

WHEREAS, the environmental impacts of the amendments to the critical areas regulations resulted in the issuance of a Determination of Non-Significance (DNS) on October 6, 2022; and

WHEREAS, the City of Medical Lake Planning Commission (Planning Commission) considered the proposed Critical Areas Regulations amendments at a properly noticed public hearing on September 22, 2022, so as to receive public testimony; and

WHEREAS, at its December 15, 2022, meeting, the Planning Commission voted to recommend approval of the amendments to the Critical Areas Regulations; and

WHEREAS, on February 7, 2023, the City Council discussed the proposed Critical Areas Regulations amendments at a properly noticed open public meeting; and

WHEREAS, pursuant to RCW 36.70A.370, the City used the process established by the Washington State Attorney General to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, on September 21, 2022, the City provided the Washington State Department of Commerce with a sixty (60) day notice of its intent to adopt the amendment(s) to the MLMC; and

WHEREAS, the City Council considered the entire public record, public comments, written and oral, and the Planning Commission's recommendation; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, including documents on file with the City of Medical Lake; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, RCW 35A.63 and RCW 36.70A and Article 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, the City Council determined that the proposed amendments are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens and property owners of the City; and

WHEREAS, the City Council determined that the proposed amendments are consistent with the goals and requirements of the GMA; and

WHEREAS, it is the City Council expectation that this Ordinance will not be published as required by law until it is approved by the Washington State Department of Ecology; and

WHEREAS, once the Department of Ecology approves the Ordinance, then it may be published as required by law.

NOW, THEREFORE, the City Council of the City of Medical Lake, Washington does ordain as follows:

Section 1. Amendment. MLMC 17.10 Resource Lands and Critical Areas Preservation is amended and repealed, where applicable, as set forth in Exhibit A to this Ordinance.

Section 2. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

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

Section 4. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication of this Ordinance or a summary thereof in the official newspaper of the City as provided by law.

PASSED by the City Council this _____ day of February, 2023.

Mayor, Terri Cooper

ATTEST:

Finance Director/City Clerk Koss Ronholt

APPROVED AS TO FORM:

City Attorney, Sean P. Boutz

Date of Publication:

Effective Date:

Chapter 17.10 CRITICAL AREAS

17.10.010 - Purpose.

17.10.020 - General Provisions.

17.10.030 - Applicability and Exemptions from Requirement to Obtain Permit.

17.10.040 - Approval Process.

17.10.050 - Submittal Requirements.

17.10.060 - Approval Criteria.

17.10.070 - Fish and Wildlife Habitat Conservation Areas.

17.10.080 - Frequently Flooded Areas.

17.10.090 - Wetlands

17.10.100 - Reasonable Use Exceptions.

17.10.110 - Minor Exceptions.

17.10.120 - Unauthorized Alterations and Enforcement.

17.10.130 - Definitions.

Chapter 17.10 CRITICAL AREAS

17.10.010 - Purpose.

A. The purpose of this chapter is to designate and protect critical areas and their functions and values, while also allowing for reasonable use of property.

B. As mandated by the Growth Management Act (RCW 36.70A), this chapter provides protection for the critical areas of wetlands, fish and wildlife habitat conservation areas, and frequently flooded areas.

C. This chapter implements the goals and policies of the Medical Lake Comprehensive Plan, under the Washington Growth Management Act and other related state and federal laws.

17.10.020 - General Provisions.

A. *No Net Loss of Functions.* Activity shall result in no net loss of functions and values in the critical areas. Since values are difficult to measure, no net loss of functions and values means no net loss of functions. The beneficial functions provided by critical areas include, but are not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage; conveyance and attenuation of flood waters; ground water recharge and discharge; and erosion control. These beneficial functions are not listed in order of priority. This chapter is also intended to protect residents from hazards and minimize risk of injury or property damage.

B. *Relationship to Other Regulations.*

1. These critical areas regulations shall apply in addition to zoning and other regulations adopted by the city.
2. Any individual critical area that overlaps another type of critical area shall meet the requirements that provide the most protection to the critical areas involved.
3. When there is a conflict between any provisions of this chapter or any other regulations, that which provides the most protection to the subject critical area shall apply.
4. Conditions of approval of a project affecting critical areas may be supplemented by a review under the State Environmental Policy Act (SEPA), as locally adopted.
5. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements. The applicant is responsible for complying with other state and federal requirements in addition to the requirements of this chapter. Obtaining all applicable state and federal permits shall be made a condition of a Critical Areas Permit. Such permits shall be obtained prior to issuance of permits for development, construction or site disturbance.

C. *Jurisdiction.* All areas within the city meeting the definition of one or more critical areas, whether mapped or not, are hereby designated critical areas and with their buffers are subject to the provisions of this chapter.

D. *Abrogation and Greater Restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. *Severability.* This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

F. *Warning and Disclaimer of Liability.* The standards established herein are minimum standards. The standards are established for regulatory purposes only. Minimum compliance with these standards may not be sufficient protection from identified or unidentified hazards. City establishment of these minimum standards is not a representation that these standards are sufficient protection from any hazard. Critical areas development should be based on sound scientific and engineering considerations that may be more stringent than this chapter. The city assumes no liability if these established standards prove to be insufficient protection.

G. *Interpretation of Critical Area Boundaries.* The planning official shall be authorized to interpret the exact location of the mapped critical area boundary. Final designations shall be based on site conditions and other available data or information.

H. *Exceptions.* Where the applicant seeks an exception to any requirement imposed by this code, or believes said requirement denies all reasonable economic use of the subject property, justification in support of an exception must be clear and convincing. Grant of an exception, on the other hand, must not be unreasonably withheld.

17.10.030 - Applicability and Exemptions from Requirement to Obtain Permit.

A. *Applicability.*

1. Unless exempted by this chapter the provisions of this chapter shall apply to all lands, all land uses, clearing and development activity, and all structures and facilities in the city located within a critical area or buffer or on a site containing a critical area or buffer including single-family residential lots platted before July 19, 1994, and developments such as play structures that require no other permits.

The following are examples of activities regulated within a critical area or its buffer:

- a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
- b. The dumping of, discharging of, or filling with any material.
- c. The draining, flooding, or disturbing the water level or water table.
- d. Pile driving.
- e. The placing of obstructions.
- f. The construction, reconstruction, demolition, or expansion of any structure.
- g. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.
- h. Activities that result in:
 - i. A significant change of water temperature.
 - ii. A significant change of physical or chemical characteristics of the sources of water.
 - iii. A significant change in the quantity, timing, or duration of the water.
 - iv. The introduction of pollutants.

2. The provisions of this chapter shall apply whether or not a permit or authorization is required.

3. No person, company, agency, or applicant shall alter a critical area or buffer (including removal of downed woody vegetation or application of chemicals harmful to fish and wildlife) except as consistent with the requirements of this chapter.

4. The Critical Areas Permit required pursuant to this chapter shall be obtained prior to undertaking any activity or development regulated by this chapter, unless exempted by this chapter.

5. Land that is located wholly within a wetland or its buffer may not be subdivided.

B. *Exemptions.* Reasonable methods shall be used to avoid potential impacts to critical areas. Any damage to, or alteration of, a critical area that is not a necessary outcome of the exempt activity shall be corrected at the property owner's expense.

The following activities are exempt from needing a Critical Areas Permit:

1. *Emergencies.* Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of property damage and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter, so long as all of the following apply:
 - a. The emergency action uses reasonable methods to address the emergency.
 - b. The emergency action must have the minimum possible impact to the critical area or its buffer.
 - c. The property owner, person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity.
 - d. After the emergency, the property owner, person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved Critical Areas Report and mitigation plan. The property owner, person or agency undertaking the action must apply for a critical areas permit. The alteration, Critical Areas Report, and mitigation plan shall be reviewed by the city in accordance with the review procedures contained in this chapter.
 - e. Restoration and/or mitigation activities must be initiated within three months of the date of the emergency or as otherwise determined by the planning official, and completed in a timely manner.
2. *Valid Critical Areas Permit.* Any development proposed on property pursuant to a currently valid Critical Areas Permit, provided all conditions and requirements of the Critical Areas Permit are met and the proposed activity is within the scope of the original permit.
3. *Hazard Tree.* Emergency or hazard tree removal conducted so that critical area impacts are minimized.
4. *Landscape Maintenance.* Landscape maintenance (other than tree removal or use of pesticides, herbicides, fungicides or fertilizers) consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, within the boundaries of an existing lawn, garden or landscaped area and not associated with development.
5. *Noxious or Invasive Plants.* Clearing of noxious or invasive plants using hand-held equipment such as a weed-whacker, provided (1) fueling and maintenance take place outside the critical area and buffer; (2) all cleared vegetation is taken away and disposed of properly; and (3) denuded soils are stabilized with native vegetation.

6. *State or Federally Approved Conservation or Preservation.* State or federally approved conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing critical area or buffer.

7. *Harvesting Wild Crops.* The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops or other native vegetation and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the critical area or buffer by changing existing topography, water conditions or water sources.

8. *Passive Activities.* Passive outdoor recreation, education, and scientific research activities such as fishing, hiking, and bird watching that do not degrade the critical area or buffer.

9. *Land surveys, soil sampling, percolation tests, and other related activities.* In every case, impacts to the critical area or buffer shall be minimized and disturbed areas shall be stabilized immediately.

10. *Navigational Aids and Boundary Markers.* Construction or modification of navigational aids and boundary markers. Impacts to the critical area or buffer shall be minimized and disturbed areas shall be restored within 72 hours.

11. *Agricultural Activities.* Existing and ongoing agricultural activities conducted on lands defined in RCW 84.34.020(2).

12. *State or Federally Approved Restoration or Enhancement Project.* Implementation of a state or federally approved restoration or enhancement project not related to any development project.

13. *Operation, Repair and Maintenance.* Operation, repair, and maintenance of existing structures, infrastructure, roads, sidewalks, railroads, trails, water, sewer, stormwater, power, gas, telephone, cable, or fiber optic facilities if the activity does not further increase the impact to, or encroach farther within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, repair, or maintenance.

14. *Fence Repair.* Maintenance, repair, and in-kind replacement of existing fences.

15. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030.

16. Repair and maintenance of legally established non-conforming uses or structures, provided they do not increase the degree of nonconformity.

17.10.040 - Approval Process.

A. *Critical Areas Permit Process.*

1. Consolidated reviews. Applications for more than one project on a site may be consolidated into a single application. When more than one review is requested and the reviews have different procedures, the application is processed using the most comprehensive review process.
2. Timeline. A final decision should be made within 120 days from the date the application was deemed complete or a written notice given to the applicant specifying the reasons why the time limits will not be met and an estimated date of issuance.
3. Application. The applicant must submit an application on a city form, to include three paper copies and one electronic copy of the following: 1) a written description of the proposal; 2) a site plan; 3) all required reports and mitigation plans; and 4) a written response to all applicable approval criteria, and the correct fee.
4. Environmental checklist. A completed environmental checklist as specified in Chapter 16.10, may be required with a land use application.
5. Completeness check. Upon receipt of an application it shall be routed to other departments for a determination of completeness under RCW 36.70B.070. Within 28 days the city shall provide written notice that: (a) the application is complete or (b) additional information is required. Once the applicant supplies the additional information, the planning official has 14 days to determine if the application is complete or request further information. If the requested information is not received within 60 days of notice of an incomplete application, the application will be considered abandoned and the city will not refund the application fee.
6. Additional governmental authority. The planning official must notify the applicant of any other governmental authority that may have jurisdiction over some aspect of the proposed project within 28 days of submittal.
7. Notice of application. Following the determination of completeness, the city shall, within 14 days, provide the applicant and the public with a notice of application. Once the applicant receives the notice of application, the applicant shall within 14 days of receipt place a public notice in the local newspaper. The notice shall include the time, place, and purpose of the of the public hearing.
8. Public comment period. The public may provide written comment for a period of no fewer than 14 days and no greater than 30 days as specified in the public notice, provided public comment may be accepted prior to closing the record where there is an open record hearing or the decision.
9. Department responses. City department directors notified of the application must provide a written response to the planning official within 14 days of the notice.
10. Concurrency determination. The public works director will issue a concurrency determination no more than 14 days after receiving the notice of application per Chapter 16.02

11. SEPA threshold determination. The planning official will issue a SEPA threshold determination no fewer than 15 days prior to a hearing.

12. Review. The planning official must provide a single report stating the approval criteria, findings and a recommendation to the Planning Commission prior to the hearing.

13. Hearing. An open record hearing will be conducted by the Planning Commission. The Planning Commission must recommend approval, approval with conditions, or denial to the City Council based on information presented at the hearing and in the record.

14. Final Decision Authority. The City Council has final decision authority preceded by the recommendation of the Planning Commission.

15. Notice of decision. Within seven days of the decision the planning official will mail notice of the review body's decision (pending appeal) to the applicant, the owner and all recognized organizations or persons who responded in writing to the public notice, testified at the hearing, or requested a notice of decision.

16. Ability to appeal. A decision may be appealed to Superior Court pursuant of the review process of RCW 36.70C.

17. Recording. All decisions of approval, including conditions, shall be recorded with Spokane County Auditor. The applicant is responsible for the recording the decision against the property and must provide a copy of the recorded decision to the planning department. The decision must be recorded before the approved use is permitted and/or permits are issued, but no later than 30 days from the final decision.

18. Effective date. The effective date is the day the decision is signed.

19. Expiration. The critical areas permit expires 5 years after the approval date.

B. *Notice on Title – Covenant and Tracts.*

1. *Covenants.* This section applies to all nonexempt projects that involve critical areas and buffers.

a. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is approved shall file a covenant with the county records and elections division according to the direction of the city. The covenant shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The covenant shall “run with the land.”

b. The applicant shall submit proof that the covenant has been filed for public record before the city approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, binding site plans, and other developments that involve platting, at or before recording of the plat.

2. *Tracts*. This section applies in addition to subsection (B)(1) of this section to projects that involve platting on properties containing fish and wildlife habitat conservation areas, wetlands, and their buffers. The location of the tract, critical area(s), and buffer(s) shall be shown on the face of the plat. See subsection (B)(2)(b) of this section for exceptions.

a. The property owner shall place the subject critical areas and buffers in one or more nondevelopable tracts except when:

- i. Creation of a nonbuildable tract would result in violation of minimum lot depth standards; or
- ii. The responsible official determines a tract is impractical.

b. When an exception in subsection (B)(2)(a) of this section applies, residential lots may extend into the critical area(s) or buffer(s) provided:

- i. The location of the outer perimeter of the critical area(s) and buffer(s) is marked in the field and approved by the planning official prior to the commencement of permitted activities and maintained throughout the duration of the permit.
- ii. A permanent physical demarcation along the outer/upland boundary of the critical area buffer(s) is installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the critical area environment, and is approved by the planning official.
- iii. Permanent signs are posted at an interval of one per lot for single-family residential uses or at a maximum interval of 200 feet, or as otherwise determined by the planning official, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the planning official: "Protected Natural Resource. Call 509-565-5000 for more information."

C. *Financial Assurances*.

1. When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to provide security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall provide security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional (including but not limited to construction, maintenance, and monitoring). The security shall be in the amount of 125 percent of the estimated cost of restoring the functions of the critical area that are at risk.

2. The security shall remain in effect for a minimum of 5 years or until the city determines, in writing, that the standards have been met.

3. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.
4. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed in the project budget or capital improvement budget for mitigation, maintenance, monitoring, or restoration.
5. Failure to satisfy any critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.
6. Any funds recovered pursuant to this section shall be used to complete the required mitigation. Excess funds shall be returned to the applicant.

D. *Critical Area Inspections.* Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

F. *Appeals.* Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to Section 17.10.040.A.15.

17.10.050 - Submittal Requirements.

A. *Preparation by Qualified Professional.* Any required Critical Areas Report shall be prepared by a qualified professional as defined herein.

B. *General Critical Areas Report Contents.* At a minimum, the Critical Areas Report shall contain the following:

1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
2. A copy of the site plan for the development proposal including:
 - a. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
 - b. Estimate of conditions of all critical areas within 250 feet of the project boundaries using best available information.
 - c. Proposed stormwater management and sediment control plan for the development including a description of any impacts to drainage alterations; and

d. A digital map of the geographic information required pursuant to the applicable provisions of this chapter for each critical area and buffer on site.

3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

4. *Identification and scientific characterization of all critical areas and buffers.* The scientific characterization shall include a detailed assessment of the functional characteristics of the critical areas;

5. An assessment of the probable impacts to critical areas and buffers and risk of injury or property damage including permanent, temporary, temporal, and indirect impacts resulting from development of the site and the operations of the proposed development;

6. A written response to each of the approval criteria in section 17.10.060 Approval Criteria;

7. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with the Mitigation Plan Requirements below.

C. *Additional Information.* Any additional information required for the specific critical areas and buffers as specified in Section 17.10.070 Fish and Wildlife Habitat Conservation Area, Section 17.10.080 Frequently Flooded Areas, and Section 17.10.090 Wetlands.

D. *Other Reports or Studies.* Unless otherwise provided, a Critical Areas Report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the planning official, provided, the site conditions have not changed since the earlier report or study was completed.

E. *Critical Areas Report – Modifications to Requirements.* Modifications to Required Contents. The applicant may consult with the planning official prior to or during preparation of the Critical Areas Report to obtain city approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential impacts to any critical areas or buffers and the required mitigation. The planning official may also initiate a modification to the required report contents by requiring either additional or less information, when determined to be necessary to the review of the proposed activity in accordance with this chapter.

F. *Mitigation Plan Requirements.* When mitigation is required, the applicant shall submit a mitigation plan as part of the Critical Areas Report. The mitigation plan shall include:

1. *Detailed Construction Plans.* The mitigation plan shall include descriptions of the mitigation proposed, such as:

a. The proposed construction sequence, timing, and duration;

b. Grading and excavation details;

- c. Erosion and sediment control features;
- d. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
- e. Measures to protect and maintain plants until established.
- f. Surface and subsurface hydrological conditions unless hydrological conditions are irrelevant to the subject critical area.

These written descriptions shall be accompanied by detailed site diagrams, scaled cross sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

2. *Monitoring Program.* The mitigation plan shall include a program for monitoring construction of the mitigation project and for assessing a completed project. A protocol shall be included, outlining the schedule for site monitoring, and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

When the applicant believes that the conditions of the monitoring plan are met, the applicant shall contact the City and request that the City verify and certify so in writing. The City shall conduct an on-site assessment as part of the verification process. The applicant shall provide reasonable access to the property as necessary for verification and certification.

When the City has verified and certified that the conditions of the monitoring plan have been met, the critical area shall no longer be considered as mitigation, but as a naturally-occurring critical area when processing a future development permit application(s).

3. *Adaptive Management.* The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

17.10.060 - Approval Criteria.

Any activity or development subject to this chapter, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria. The city may condition the proposed activity as necessary to mitigate impacts to critical areas and their buffers and to conform to the standards required by this chapter. Activities shall protect the functions of the critical areas and buffers on the site.

- A. *Avoid Impacts.* The Applicant shall first seek to avoid all impacts that degrade the functions and values of critical area(s). This may necessitate a redesign of the proposal.
- B. *Minimize Impacts.* Where avoidance is not feasible, the applicant shall minimize the impact of the activity and mitigate to the extent necessary to achieve the activity's purpose and the purpose of this ordinance. The applicant shall seek to minimize the fragmentation of the resource to the greatest extent possible.
- C. *Compensatory Mitigation.* The applicant shall compensate for the unavoidable impacts by replacing each of the affected functions to the extent feasible. The compensatory mitigation shall be designed to achieve the functions as soon as practicable. Compensatory mitigation shall be in-kind and on-site, when feasible, and sufficient to maintain the functions of the critical area, and to prevent risk from a hazard posed by a critical area to a development or by a development to a critical area.
- D. *No Net Loss.* The proposal protects the critical area functions and values and results in no net loss of critical area functions and values.
- E. *Consistency with General Purposes.* The proposal is consistent with the general purposes of this chapter and does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;
- F. *Performance Standards.* The proposal meets the specific performance standards of Fish and Wildlife Habitat Conservation Areas section 17.10.070.C, Frequently Flooded Areas section 17.10.080.D, and Wetlands section 17.10.090.F, as applicable.

17.10.070 - Fish and Wildlife Habitat Conservation Areas.

A. *Designation.*

1. Final designations shall be based on site conditions and other available data or information. There are established in the city the following identified Fish and Wildlife Habitat Conservation Areas:
 - a. Habitat used by any life stage of state or federally designated endangered, threatened, and sensitive fish or wildlife species. A current list of federally and state identified species is available from the Washington State Department of Fish and Wildlife.
 - b. *Priority Habitats and areas associated with Priority Species.* Current maps and lists of Priority Habitats and Species and applicable management recommendations are available from the Washington Department of Fish and Wildlife.
 - c. Water bodies including lakes, streams, rivers, and naturally occurring ponds.

d. Riparian Management Zones. Riparian management zones shall be determined using the best available science, including the Washington Department of Fish and Wildlife publication Riparian Ecosystems: Volumes 1 & 2 (updated July 2020 or as revised).

When impervious surfaces from previous development completely functionally isolate the Riparian Management Zone from the waterbody, the regulated riparian area shall extend from the ordinary high water mark to the impervious surfaces. If the waterbody is not completely physically isolated, but is completely functionally isolated, the Planning Official may adjust the regulated riparian area to reflect site conditions and sound science.

2. *Habitat Location Information.* Information on the approximate location and extent of Habitat Conservation Areas is available from the planning official.

The habitat location information is based on:

- a. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;
- b. Washington Department of Natural Resources Official Water Type Reference Maps;

B. *Additional Critical Areas Report Requirements.*

1. A Critical Areas Report for a Riparian Management Area or Riparian Buffer shall include evaluation of the habitat functions using a habitat evaluation tool approved by the Washington Department of Fish and Wildlife.

In addition to the standards of Section 17.10.050.B, where a mitigation plan is required as part of the Critical Areas Report for a fish and wildlife habitat conservation area that involves a water body, Riparian Management Area or Riparian Buffer, the monitoring program protocol shall include where relevant to the impacted functions:

- a. Observations and measurements of riparian integrity and quality (buffer width, riparian corridor continuity or fragmentation, species diversity, stand age, plant survival rates)
- b. Large woody debris surveys
- c. Streamflow monitoring
- d. Water quality monitoring to detect pollution impacts
- e. Biological monitoring (including fish surveys and benthic macroinvertebrate sampling)

2. If the clearing or development activity is in the Riparian Management Area, the Critical Areas Report shall contain the following information, if applicable, in addition to the general Critical Areas Report requirements of Section 17.10.050.B:

- a. How the clearing or development activity constitutes a water-dependent, water-related or water-enjoyment use; or
- b. How the clearing or development activity cannot feasibly be located on the site outside of the Riparian Management Area; and
- c. How the proposal meets the Riparian Management Area width averaging standard in Section 17.10.070.C.3.c; and
- d. How the proposal will not adversely affect the connectivity of habitat functions.

C. *Performance Standards.*

1. *General.*

- a. Development or clearing activities shall protect the functions of the Habitat Conservation Areas on the site. The activity shall result in no net loss of functions. Protection can be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas approval criteria in Section 17.10.060. Functions include:
 - i. Providing habitat for breeding, rearing, foraging, protection and escape, migration, and overwintering; and
 - ii. Providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.
- b. An applicant shall replace any lost functions preferably by restoring or if not, then by enhancing other habitat functions, so long as the applicant demonstrates that enhancement of the other functions provides no net loss in overall functions and maintains habitat connectivity. An example of unavoidable loss of function would be interruption of a travel corridor in a Riparian Management Zone. To the maximum extent feasible, enhancement shall be undertaken on-site.
- c. If development or clearing activity is within a Priority Habitat and Species area, the applicant shall follow Washington Department of Fish and Wildlife Management Guidelines, Management Recommendations or other standards approved by the Washington Department of Fish and Wildlife. Where there are no guidelines, recommendations or other standards, development or clearing may occur provided that:
 - i. The development or clearing results in no net loss of habitat function on the site; and
 - ii. Functionally significant habitat, defined as habitat that cannot be replaced or restored within 20 years, shall be preserved.
- d. Signs for Fish and Wildlife Conservation Areas

i. *Temporary markers.* The location of the outer perimeter of the fish and wildlife habitat conservation area shall be marked in the field, and such marking shall be approved by the planning official prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.

ii. *Permanent signs.* Permanent signs shall be posted on public and private properties at an interval of one per lot for single family residential uses or at a maximum interval of 200 feet or as otherwise determined by the planning official, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the planning official: “Natural Resource Area. Call 509-565-5000 for information.”

2. Riparian Management Zones.

In addition to the standards in Section 17.10.070.C.1 the standards in this section shall apply in Riparian Management Areas and Buffers.

a. *Riparian Management Zone.* No development or clearing activity is allowed within the Riparian Management Zone unless such activity is:

i. A water-dependent, water-related or water-enjoyment activity where there are no feasible alternatives that would have a less adverse impact on the Riparian Management Area or Riparian Buffer. The applicant shall minimize the impact and mitigate for any unavoidable impact to functions; Cost may be considered, but shall not be overriding; or

ii. A road, railroad, trail, or a water, sewer, stormwater conveyance, gas, power, cable, fiber optic, or telephone facility that cannot feasibly be located outside of the Riparian Management Area, that minimizes impacts, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or

iii. Mitigation for activities allowed by this chapter, providing the activity provides no net loss of riparian habitat functions on the site.

b. Owners of developed properties within the Riparian Management Zone are encouraged to enhance the area by planting native plants and to apply integrated pest management.

17.10.080 - Frequently Flooded Areas.

This section shall apply to all special flood hazard areas within the boundaries of the city of Medical Lake.

A. *Designation.* Frequently flooded areas are the areas of special flood hazards identified by the Federal Insurance Administration and the Federal Emergency Management Agency (FEMA)

When base flood elevation (BFE) data has not been provided in frequently flooded areas, the planning official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of this chapter

B. *Warning and Disclaimer of Liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Medical Lake, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

C. *Additional Critical Areas Report Requirements.* In addition to the Critical Areas Report requirements in Section 17.10.050 Submittal Requirements, the following information shall be submitted. Elevation data shall reference the NAVD 1988 Datum.

1. Base (100-year) flood elevation in relation to mean sea level. When base flood elevation has not been provided or is not available from an authoritative source, it shall be generated by the applicant for developments which contain at least 50 lots or 5 acres, whichever is less.
2. Elevation in relation to mean sea level, of the lowest floor (including basement) of all existing and proposed structures.
3. Elevation in relation to mean sea level to which any structure's lowest floor (including basement) is raised to be at least 1 foot above the base flood elevation or for nonresidential flood-proofed structures, the elevation in relation to mean sea level to which any structure is flood-proofed.
4. *Description of strategies taken to avoid, minimize, and mitigate unavoidable impacts to public safety.* When the base flood elevation has not been provided, the Critical Areas Report shall include a discussion of how and whether the proposed development would be reasonably safe from flooding. Historical data, high water marks, photographs of past flooding and other available information will be used as the basis for this discussion and conclusion.
5. Certification, documentation, and demonstration by a qualified professional of how the applicable performance standards will be met.

D. *Performance Standards.* Except as noted, the following standards apply to all structures and development (including but not limited to the placement of manufactured homes, substantial improvement, roads, railroads, trails, water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facilities) in all areas of special flood hazards and channel migration zones.

1. *Prohibited Encroachments.* The following are prohibited in the floodway:
 - a. Water wells.

- b. On-site waste disposal systems.
- c. Residential structures or other structures for human habitation including but not limited to:
 - i. Building envelopes within subdivisions;
 - ii. New construction or reconstruction of residential structures;
 - iii. Placement or replacement of manufactured homes (all types);
 - iv. Critical facilities housing vulnerable populations and emergency services; and
 - v. Recreational vehicles.

2. *Property Damage.* Development shall not result in adverse impacts to other properties either upstream or downstream.

3. *Drainage.* Drainage paths around structures and on slopes shall be adequate to guide floodwaters around and away from proposed structures and adjacent properties.

17.10.090 – Wetlands.

A. *Purpose.* Wetlands provide beneficial functions which include, but are not limited to, providing food, breeding nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, adsorption, and retention and transformation of sediments, nutrients, and toxicants.

B. *Designation.* Wetlands are those areas, designated in accordance with the 1987 Federal Wetland Delineation Manual and applicable regional supplements. All areas meeting the wetland definition, mapped or not, are hereby designated critical areas and subject to this chapter.

C. *Delineation.* Wetland delineations are valid for five years; after such date a qualified professional must determine whether a revision or additional assessment is necessary.

D. *Wetland Ratings.* Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington: 2014 Update (Ecology Publication #14-06-030, or as revised). The rating system document contains the definitions and methods for determining if the criteria below are met. The most recent version of the rating system form must be used. Wetland Rating Categories are as follows:

1. Category I wetlands are: 1) alkali wetlands; 2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; 3) bogs and calcareous fens; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with

stands of aspen; and 6) wetlands that perform many functions well (scores between 22-27). These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.

2. Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though not impossible, to replace and provide high levels of some functions.

3. Category III wetlands have a moderate level of functions (scores between 16-18 points). They generally have been disturbed in some way and are less diverse or more isolated from other natural resources. These wetlands can be often adequately replaced with well-planned mitigation.

4. Category IV wetlands have the lowest levels of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands that should be able to be replaced, or in some cases improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

E. *Additional Critical Areas Report Requirements.* A critical areas report for wetlands shall be prepared according to the Washington State Wetland Rating System for Eastern Washington. The critical areas report shall contain an analysis of the wetlands including the following site- and proposal-related information:

1. A written assessment, data sheets and accompanying maps of any wetlands or buffers on the site including the following information:
 - a. Hydrogeomorphic (HGM) subclassification and Cowardin class;
 - b. Wetland category;
 - c. Wetland delineation and required buffers;
 - d. Existing wetland acreage;
 - e. Vegetative, faunal, and hydrologic characteristics;
 - f. Soil types and substrate conditions;
 - g. Topographic elevations, at one-foot contours; and
 - h. A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year – drift lines, algal layers, moss lines, and sediment deposits).

2. Functional evaluation for the wetland and buffer using Ecology's most current approved method and including the reference of the method and all data sheets.
3. Proposed mitigation, if needed, including a discussion of alternatives and trade-offs inherent in the various alternatives (for example, where enhancement for one function would adversely affect another), a written description and accompanying maps of the mitigation area, including the following information:
 - a. Existing and proposed wetland acreage;
 - b. Existing and proposed vegetative and faunal conditions;
 - c. Surface and subsurface hydrological conditions of existing and proposed wetlands and hydrologically associated wetlands including an analysis of existing hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;
 - d. Relationship to lakes, streams and rivers in the watershed;
 - e. Soil type and substrate conditions;
 - f. Topographic elevations, at one-foot contours;
 - g. Required wetland buffers including existing and proposed vegetation;
 - h. Identification of the wetland's contributing area; and
 - i. A functional assessment of proposed mitigation to ensure no net loss of shoreline ecological function.

F. *Performance Standards.* Development or clearing activities shall protect the functions of wetlands and wetland buffers on the site. Activities shall result in no net loss of wetland or buffer functions. Protection may be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas performance standards.

1. *Wetlands.*

- a. In Category I wetlands only the following activities may be allowed:
 - i. A road, railroad, trail, water, sewer, stormwater conveyance, gas, power, cable, fiber optic or telephone facility that cannot feasibly be located outside of the wetland, that minimizes the impact, and that mitigates for any unavoidable impact to functions. Cost may be considered, but shall not be overriding; or
 - ii. Trails and wildlife viewing structures; provided, that the trails and structures minimize the impact and are constructed so that they do not interfere with wetland hydrology and do not result in increased sediment entering the wetland.

- b. In Category II wetlands only the following activities may be allowed:
 - i. Activities allowed in Category I wetlands.
 - ii. Enhancement and restoration activities aimed at protecting the soil, water, vegetation or wildlife.
 - iii. Within shoreline jurisdiction, water-dependent, water-related or water-enjoyment activities where there are no feasible alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.
 - iv. Where non-water dependent, related or enjoyment activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited unless the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and successfully avoid or result in less adverse impacts on a wetland on another site or sites in the city of Medical Lake.
- c. In Category III wetlands only the following activities may be allowed:
 - i. Activities allowed in Category II wetlands.
 - ii. Other activities may be allowed if the applicant demonstrates that the basic project purpose cannot reasonably be accomplished and avoid or result in less adverse impacts on a wetland or its buffer than alternative uses or designs (including reduction in the size, scope, configuration or density of the project).
 - iii. Stormwater management facilities. A wetland or its buffer can be physically or hydrologically altered if: 1) there will be no net loss of functions and values of the wetland; 2) the wetland does not contain a breeding population of any native amphibian species; 3) the wetland lies in the natural routing of the runoff, and the discharge follows the natural routing; 4) all local and state stormwater regulations, codes, manuals, and permits are being followed; and 5) all functions and values that are lost will be compensated.
- d. In Category IV wetlands only the following activities may be allowed:
 - i. Activities allowed in Category III wetlands.
 - ii. Activities and uses that result in impacts may be permitted in accordance with an approved critical areas report and mitigation plan if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full mitigation for the loss of acreage and functions shall be provided under the terms established pursuant to Section 17.10.090.F.2.

2. *Wetland Buffers.*

a. Buffer Requirements. The following buffer widths have been established in accordance with the best available science. They are based on the land use intensity, the category of wetland, and the habitat score as determined by a qualified wetland professional using the *Washington State Wetland Rating System for Eastern Washington; 2014 Update* (Ecology Publication #14-060-030, or as revised).

b. For high intensity uses, the buffers in Table 17.10.090(3) can be used if the impact measures of Table 17.10.090(5) are implemented.

c. If an applicant chooses not to, or are unable to apply the impact measures of Table 17.10.090(5), then Table 17.10.090(4) must be used.

d. The buffer widths in Tables 17.10.090(2-4) assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

e. Buffer widths are measured horizontally from the edge of the wetland:

f. All buffers shall be measured from the wetland boundary as surveyed in the field.

g. Areas which are completely functionally separated from a wetland and do not protect the wetland from adverse impacts may be excluded from buffers otherwise required.

Table 17.10.090(1) LAND USE INTENSITIES

Land Use Intensity	Land Use
High	Commercial, industrial, and institutional uses. Residential uses greater than 1 unit per acre. High-intensity recreation such as golf courses, playgrounds, and ball fields.
Moderate	Residential uses equal to or less than 1 unit per acre. Moderate-intensity recreation such as paved trails. Utility corridors without a maintenance road.
Low	Low-intensity open space including unpaved trails.

Table 17.10.090(2) Buffer widths for Low Intensity Uses

	Buffer width (in feet) based on habitat score			
Wetland Category	3-4	5	6-7	8-9

Category I: Based on total score or Forested	50	60	75	125
Category I: Bogs and Wetlands of High Conservation Value	175			
Category I: Alkali	125			
Category II: Based on total score or Forested	50	60	75	125
Category II: Vernal pool	125			
Category III	40	60	75	125
Category IV	25			

Table 17.10.090(3) Buffer Widths for Medium Intensity Uses or High Intensity Uses that have minimized impacts via Table 17.10.090(5)

	Buffer width (in feet) based on habitat score			
Wetland Category	3-4	5	6-7	8-9
Category I: Based on total score or Forested	75	90	120	150
Category I: Bogs and Wetlands of High Conservation Value	190			
Category I: Alkali	150			
Category II: Based on total score or Forested	75	90	120	150
Category II: Vernal pool	150			
Category III	60	90	120	150
Category IV	40			

Table 17.10.090(4) Buffer Widths for High Intensity Uses

	Buffer width (in feet) based on habitat score			
Wetland Category	3-4	5	6-7	8-9

Category I: Based on total score or Forested	100	130	180	200
Category I: Bogs and Wetlands of High Conservation Value	250			
Category I: Alkali	200			
Category II: Based on total score or Forested	100	130	180	200
Category II: Vernal pool	200			
Category III	80	130	180	200
Category IV	50			

Table 17.10.090(5) Measures to Minimize Impacts on Wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150' of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust

h. *Wetland Buffer Width Averaging.* The buffer width may be modified in accordance with an approved critical areas report on a case-by-case basis by averaging buffer widths. Buffer width averaging shall not be used in combination with a minor exception. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:

- i. Such averaging will not reduce wetland functions or functional performance; and
- ii. The wetland varies in sensitivity due to existing physical characteristics, or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places; and
- iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
- iv. The buffer width is reduced by no more than twenty-five percent of the standard width and at no point to less than twenty-five feet.

i. *Buffer Maintenance.* Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be maintained according to the approved critical areas permit.

G. *Signs and Fencing of Wetlands.*

1. The location of the outer perimeter of the wetland and buffer shall be marked in the field, and such marking shall be approved by the planning official prior to the commencement of permitted activities. Such field markings shall be maintained throughout the duration of the permit.
2. A permanent physical demarcation along the upland boundary of the wetland buffer shall be installed and thereafter maintained. Such demarcation may consist of fencing, hedging or other prominent physical marking that allows wildlife passage, blends with the wetland environment, and is approved by the planning official.
3. Permanent fencing of the wetland buffer on the outer perimeter shall be erected and thereafter maintained when there is a substantial likelihood of the presence of domestic grazing animals within the property unless the planning official determines that the animals would not degrade the functions of the wetland or buffer.
4. Permanent signs shall be posted at an interval of one per lot for single-family residential uses or at a maximum interval of two hundred feet, or as otherwise determined by the planning official, and must be perpetually maintained by the property owner. The sign shall be worded as follows or with alternative language approved by the planning official: "Protected Natural Resource. Call 509-565-5000 for more information."

H. *Compensatory Mitigation*. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized, and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans – Version 1*, (Ecology Publication #06-06-011b, March 2006 or as revised), and *Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington)* (Publication #10-06-015, August 2012 or as revised).

1. *Mitigation for Lost or Affected Functions*. Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement, and shall provide similar wetland or buffer functions as those lost, except when:

- a. The lost wetland or buffer provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limited within a watershed through a formal Washington State watershed assessment plan or protocol; or
- b. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

2. *Mitigation Actions*.

- a. *Creation*. The manipulation of the physical, chemical or biological characteristics present to develop a wetland on an upland or deepwater site where a biological wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, hydric soils, and support the growth of hydrophytic plant species. Creation results in a gain in wetland acres and functions.
- b. *Reestablishment*. The manipulation of the physical, chemical or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches or breaking drain tiles. Reestablishment results in a gain in wetland acres and functions.
- c. *Rehabilitation*. The manipulation of the physical, chemical or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain, restoring tidal influence to a wetland, or breaking drain tiles and plugging drainage ditches. Rehabilitation results in a gain in wetland functions but not in wetland acres.
- d. *Enhancement*. The manipulation of the physical, chemical or biological characteristics of a biological wetland to increase or improve specific functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or wildlife habitat. Activities typically consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations to result in

open water ponds, or some combination of these. Enhancement results in a change in certain wetland functions and can lead to a decline in other wetland functions. It does not result in a gain in wetland acres.

3. *Type and Location of Mitigation.* Compensatory mitigation for ecological functions shall be in kind. Compensatory mitigation shall be on site or within the impacted wetland's: (i) contributing area; (ii) stream reach; (iii) sub-watershed; or (iv) watershed. The mitigation site shall be where the greatest level of wetland functions can be achieved. Mitigation actions may be conducted in a different watershed when:

- a. Based on a determination of the natural capacity of the potential mitigation sites to mitigate for the impacts, there are no reasonable on-site or in-watershed opportunities, or those opportunities do not have a high likelihood of success. Consideration shall include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, and potential to impact riparian fish and wildlife habitat including connectivity; or
- b. Watershed goals for water quality, flood or conveyance, habitat or other wetland functions have been established and strongly justify location of mitigation at another site; or

4. *Mitigation Ratios.*

a. *Replacement Ratios.*

- i. The replacement ratios shall apply to wetland mitigation that: (1) is for the same hydrogeomorphic subclass (e.g., riverine flow-through, depressionnal outflow or flats), and Cowardin class (e.g., palustrine emergent, palustrine forested or estuarine wetlands); (2) is on site; (3) is in the same category; (4) is implemented prior to or concurrent with alteration; and (5) has a high probability of success.
- ii. The replacement ratios are based on replacing the affected wetland with a compensation wetland of the same category, and hydrogeomorphic (HGM) subclass and Cowardin class.
- iii. The replacement ratios do not apply to the use of credits from a state-certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification.
- iv. *Mitigation Ratios.* Mitigation ratios are as follows (see Section 17.10.090.H.2 for definitions of mitigation actions):

Table 17.10.090(6) Wetland Mitigation Ratios

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement
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Category I: Bog, Natural Heritage Site	Not considered possible	Case by Case	Case by Case
Category I: Mature Forest	6:1	12:1	24:1
Category I: Based on Functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

5. *Mitigation Timing.* The mitigation shall be implemented prior to or concurrent with alterations. If mitigation is implemented after alteration is allowed, the planning official may require additional mitigation to compensate for temporal losses of wetland functions.

6. *Buffers for Mitigation Wetlands.* Refer to Wetland Buffer Tables 17.10.090(2-4).

17.10.100 - Reasonable Use Exceptions.

A. *Exception Request and Review Process.* If the application of this chapter would deny all reasonable economic use of the subject property, the property owner may apply for an exception pursuant to this section through the Critical Areas Permit Process of Section 17.10.040.A.

An application for a reasonable use exception shall be made to the city and shall include a Critical Areas Report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (RCW 43.21C).

B. *Reasonable Use Review Criteria.* The city shall approve Critical Areas Permits for reasonable use exceptions when all of the following criteria are met:

1. The application of this chapter would deny all reasonable economic use of the property;
2. No other reasonable economic use of the property has less impact on the critical area;
3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;

4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor;
5. The proposal does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site;
6. The proposal mitigates for the loss of critical area functions to the greatest extent feasible.
7. The proposal is consistent with other applicable regulations and standards.

C. *Burden of Proof.* The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

17.10.110 - Minor Exceptions.

A. *Minor Exceptions Authorized.* Minor exceptions of no greater than 10% from the standards of this chapter may be authorized through the critical area permit process.

B. *Minor Exception Criteria.* A minor exception from the standards of this chapter may be granted only if the applicant demonstrates that the requested action conforms to all of the following criteria.

1. Unusual conditions or circumstances exist that are peculiar to the intended use, the land, the lot, or something inherent in the land, and that are not applicable to all other lands in the city;
2. The unusual conditions or circumstances do not result from the actions of the applicant;
3. Granting the minor exception requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances;
4. The minor exception is necessary for the preservation and enjoyment of a substantial property right of the applicant such as is possessed by the owners of other properties in the city;
5. Degradation of the functions (including public health and safety) of the subject critical areas and any other adverse impacts resulting from granting the minor exception will be minimized and mitigated to the extent feasible in accordance with the provision of this chapter;
6. Granting the minor exception will not otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
7. The proposed development complies with all other applicable standards.

C. *Conditions May Be Required.* In granting any minor exception, the city may attach such conditions and safeguards as are necessary to secure adequate protection of critical areas and developments from adverse impacts, and to ensure conformity with this chapter.

D. *Time Limit.* The city shall prescribe a time limit within which the action for which the minor exception is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the minor exception.

E. *Burden of Proof.* The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.

17.10.120 - Unauthorized Alterations and Enforcement.

A. *Enforcement.* When a wetland or its buffer has been altered in violation of this Chapter, all ongoing development work shall stop and the critical area shall be restored. The city shall have the authority to issue a “stop-work” order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner’s or other responsible party’s expense to compensate for violation of this chapter.

B. *Requirement for Restoration Plan.* In the event the city initiates enforcement action or files a complaint in court, the city may require a restoration plan consistent with the requirements of this chapter. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described below. The planning official shall, at the violator’s expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

C. *Minimum Performance Standards for Restoration.* . For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

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1. The structure and functions of the critical area or buffer prior to violation shall be restored, including water quality and habitat functions;
2. The soil types and configuration prior to violation shall be replicated;
3. The critical area and buffers shall be replanted with native vegetation;
4. Drainage patterns shall be resorted to those existing before the alteration; and
5. Information demonstrating compliance with the requirements in Section 17.10.050.F Mitigation Plan Requirements shall be submitted to the planning official.

D. *Site Investigations*. The planning official is authorized to make site inspections and take such actions as are necessary to enforce this chapter. As a condition of the restoration plan, the applicant shall grant reasonable access to the property.

E. *Noncompliance in Frequently Flooded Areas*. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction, be subject to enforcement under subsection A of this section. Nothing herein contained shall prevent the city of Medical Lake from taking such other lawful action as is necessary to prevent or remedy any violation.

17.10.130 - Definitions.

Alkali Wetland – A wetland characterized by the presence of shallow saline water with a high PH, as described in *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology publication #14-06-30, or as revised).

Alteration – Any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing of vegetation, construction, compaction, excavation, or any other activity that changes the character of the critical area.

Best Available Science – Current scientific information used in the process to designate, protect, or restore critical areas that is derived from valid scientific process as defined by WAC 365-195-900 through 925.

Best Management Practices – The utilization of methods, techniques, or products which have been demonstrated to be the most effective and reliable for minimizing impacts.

Bog – A low-nutrient, acidic wetland with organic soils and characteristic bog plants, as described in *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology publication #14-06-30, or as revised).

Buffer – The area contiguous with a critical area that maintains the functions and/or structural stability of the critical area.

Calcareous Fen – An alkaline peat wetland in which the groundwater is typically rich in calcium and magnesium sulfates, as described in *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology publication #14-06-30, or as revised).

Channel Migration Zone – The area within which a river channel is likely to migrate and occupy over a specified time period (e.g., 100 years).

Clearing – The destruction, disturbance, or removal of logs, scrub-shrub, stumps, trees, or any vegetative material by burning, chemical, mechanical, or other means.

Critical Areas – Critical areas include any of the following areas or ecosystems: fish and wildlife habitat conservation areas, frequently flooded areas, and wetlands, as defined in RCW 36.70A and this chapter.

Creation – The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic species.

Development – A land use consisting of the construction or exterior alteration of structures; grading, dredging, drilling, or dumping; filling; removal of sand, gravel, or minerals; bulk heading; driving of pilings; or any project of a temporary or permanent nature which modifies structures, land, or shorelines.

Enhancement – The manipulation of the physical, chemical, or biological characteristics of a critical area to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in critical area function(s) and can lead to a decline in other critical area functions, but does not result in the gain of critical area acres. Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.

Fish and Wildlife Habitat Conservation Areas – Areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors, and areas with high relative population density or species richness. Counties and cities may also designate locally important habitats and species. Fish and wildlife habitat conservation areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.

Flood Hazard Area – The lands listed in a floodplain which are areas adjacent to a lake, stream, ocean or other body of water lying outside the ordinary band of the water body and periodically inundated by flood flow subject to a one percent or greater expectancy of flooding in any given year.

Floodway – Is the area that has been established in federal emergency management agency flood insurance rate maps or floodway maps.

Frequently Flooded Areas - Lands in the flood plain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface.

Functions and Values – The services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

Hydric Soil – The soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

Hydroperiod – The seasonal occurrence of flooding and/or soil saturation which encompasses the depth, frequency, duration and seasonal pattern of inundation.

Hydrophyte – An aquatic plant growing in water or on a substrate (hydric soil) that is at least periodically deficient in oxygen where the saturated soil is too wet for most plants to survive. Examples of these plants are cattails, sedges and bulrush.

Impervious Surface – A surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under pre-development or pre-developed conditions. Common impervious surfaces include, but are limited to, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

In-Kind Compensation – To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by regulated activity.

Infiltration – The downward entry of water into the immediate surface of soil.

Isolated Wetland – A wetland that is hydrologically isolated from other aquatic resources.

Mature and Old-Growth Forested Wetland – As defined by *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology publication #14-06-30, or as revised).

Mitigation – Avoiding, minimizing, or compensating for adverse critical area impacts.

Monitoring – Evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features. Monitoring includes gathering baseline data.

Native Vegetation – Plant species that occur naturally in a particular region or environment and were present before European colonization.

Ordinary High Water Mark – That mark which is found by examining the bed and banks of water bodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in the respect to vegetation.

Planning Official – The city official appointed or retained by the city to administer to administer and enforce zoning and planning regulations.

Priority Habitat – The seasonal range or habitat element with which a given species is primarily associated and which, if altered, may reduce survival potential of that species over the long term. These may include: habitat areas of high relative density or species richness, breeding habitats, with high vulnerability to alteration.

Priority Species – Species which are of concern due to their population status and sensitivity to habitat alteration. Priority species include those which are state listed as endangered, threatened, or sensitive species as well as other species of concern and game species.

Qualified Professional – A person with expertise in the pertinent scientific discipline directly related to the critical area in question. The qualified professional shall have a minimum of a B.S. or B.A., or equivalent certification, and a minimum of two years of directly related work experience.

Qualified Professional, Wetlands – A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as wetland professional, including delineating wetlands using the federal manual and supplements, preparing wetlands reports, conducting function assessments, and developing implementing mitigation plans.

Rare, Threatened, or Endangered species - Plant or animal species that are regionally relatively uncommon, are nearing endangered status, or whose existence is in immediate jeopardy and that are usually restricted to highly specific habitats.

Reestablishment – The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former critical area. Reestablishment results in rebuilding a former critical area and results in a gain in critical area acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

Rehabilitation – The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded critical area. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

Repair or Maintenance – An activity that restores the character, scope, size, and design of serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

Restoration – Measures taken to restore an altered or damaged natural feature, including: 1) active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and 2) actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.

Riparian - Relating to or living or located on the bank of a natural watercourse (such as a river) or sometimes of a lake or a tidewater.

Riparian Management Zone – The riparian management zone is defined by the greater of the outermost point of the riparian vegetative community or the pollution removal function, at 100-feet.

Species – Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

Stream – An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devise, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

Unavoidable Impacts – Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

Vernal Pool – Small depressions in scabrock or in shallow soils that fill with snowmelt or spring rains as described in *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology publication #14-06-30, or as revised).

Water-Dependent Activity – An activity or use that requires the use of surface water to fulfill the basic purpose of the proposed project.

Wetlands – Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Wetland of High Conservation Value – A wetland that has been identified by scientists from the Washington Natural Heritage Program as an important ecosystem for maintaining plant diversity in Washington State.